

Legal Survey Manual

Volume 1- Legal Plans

Geomatics Office

Highway Standards Branch

Provincial Highways Management Division

St. Catharines, Ontario

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1	November 6, 2009	<ul style="list-style-type: none"> ▪ Revisions to some certificates/forms/titles in sample title blocks for type C,E,F,G, K, L and L&E plans: pp 1-33,-38,-42,-49, -69,-87, -88 respectively. ▪ This revision table added ▪ Minor typographical corrections throughout, including title blocks for type S, T and U-plans
2	November 17, 2010	<p>Revised to reflect new integrated surveys rules (2.1, 2.4) and monumentation rules (2.2.11).</p> <p>Minor formatting revisions elsewhere.</p>
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1 Introduction

For this manual, “legal plans” refers to plans that are used to effect or illustrate changes to the Ministry of Transportation’s holdings of real property, or illustrate other lands or works to serve some other legal need of the Ministry.

Generally, legal plan types are of either a “jurisdictional” or a “survey plan” variety.

Jurisdictional plans are those used to describe changes in the jurisdictional status of land, without a requirement for a full field survey and plan dimensioning.

Survey plans, on the other hand, are those that represent a full survey project, including field work (unless compiled from existing plans) meeting positional accuracy standards, title and survey record research, calculations, analysis, and a plan fully dimensioned with bearings and distances. By Section 2 of the Ontario *Surveys Act*, such surveys are only valid when made by or under the personal supervision of an Ontario Land Surveyor licensed to practice cadastral (also known as boundary) surveying.

Although legislative sources already set out many detailed requirements for surveys and plans of survey, this manual is meant to be a convenient reference for summarizing information by plan type for those preparing any of the legal plans for the Ministry’s usual operational needs.

This manual supersedes Volume 3.3.2 of the *Surveys and Plans Manual*.

Readers are reminded that any specific requirements within a contract’s terms of reference will take precedence over the general requirements of this manual.

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2 Legal Plan and Survey Standards

2.1 Legislative Requirements

Plans of Survey shall be drawn to professional standards, conforming to pertinent Provincial and Federal Statutes and Regulations relating to and governing land surveying in Ontario, including, but not restricted to, the *Surveys Act*, the *Surveyors Act*, the *Canada Lands Surveys Act*, the *Land Titles Act*, the *Registry Act*, O. Reg. 216/10 (*Performance Standards for the Practice of Professional Land Surveying*), O. Reg. 43/96 (*Surveys, Plans and Descriptions of Land*), O. Reg. 525/91 (*Monuments*) and *Instructions Governing Ontario Crown Land Surveys and Plans* and applicable AOLS interpretive guides.

2.2 General Requirements

2.2.1 Key Plan

Plans that will illustrate an Order in Council or be used for Assumption purposes, OMB Road Closing Plans, Plans of Canada Lands, *Navigable Waters Protection Act* Plans, Crown Land and Crown Land Abandonment Plans shall include an identification or key plan which clearly illustrates the location.

2.2.2 Latitude/Longitude in Unsurveyed Territory

Crown Land Plans or Crown Land Abandonment Plans in unsurveyed territory shall show the latitude/longitude to the nearest minute in the title block.

2.2.3 Distances

Plans shall show metric ground distances only.

2.2.4 Orientation

Plans shall be prepared in the same orientation as the property request where applicable.

2.2.5 Scale

Plans shall be metric and drawn to standard metric scales, for example 1:250, 1:500, 1:1000, 1:2000, 1:4000 or 1:5000, unless otherwise specified.

2.2.6 Text Size

Plan text size shall not be smaller than equivalent to size 80 Leroy template. Only SIMPLEX.SHX AutoCAD font shall be used in the returned AutoCAD file.

2.2.7 Plan Size

Plans may not exceed 355mm (14") in height unless approved by the Ministry.

2.2.8 Submission Form

An Association of Ontario Land Surveyors (AOLS) Plan Submission Form shall be supplied for all plans of survey prepared for the Ministry.

2.2.9 Title Block

Required title blocks, schedules and certificates shall be placed at the extreme right end of each plan. On plans prepared by consultants, no reference to the Ministry shall appear in the title block, except for the signature line of the Chief Surveyor when required. Where the standard Ministry title block has not been used, the following information shall be placed in the extreme lower right portion of the plan: highway number, indexing township, and P-number.

2.2.10 Schedules

Where required, the Part/Parcel/PIN schedule shall conform to Form 2, O. Reg. 43/96 and include 'Name of Most Recent Transferee' and 'Area' columns. Areas of one hectare or greater shall be shown to four decimal places or to three decimal places if the PART is bounded by a natural boundary. Areas less than one hectare shall be shown in square metres to one decimal place or to the nearest square metre if the PART is bounded by a natural boundary.

2.2.11 Monumentation

Monuments planted along the limit of the highway corridor shall be standard iron bars, rock bars, rock posts or rock plugs. In areas where this is not possible, short standard iron bars shall be used. If, after calling for a locate, a surveyor is of the opinion that his employees or utility infrastructure is in danger with an SIB or SSIB, plastic bars may be used. Monuments planted in agricultural lands shall be buried 0.3 metres below the surface of the ground. All monuments shall be marked by a 1.2 metre 5 cm square wood stake painted or marked fluorescent yellow, if feasible.

2.2.12 Infrastructure Features

Unless stated otherwise, buildings, water bodies, wells, gas pumps, etc. within 30 metres of any PART limit created or re-established as a result of a legal survey shall be tied in during the field survey so they may be related to the PART limit. These values shall be accurate to within 0.1 metres.

2.2.13 CAD File

A digital AutoCAD drawing file (in the version as per Terms of Reference) shall be provided for each plan and contain the minimum separate layer(s) as follows:

Layer	Colour	Plot Width(mm)	Description
SP-L-PART	Magenta	0.75	All New PART Lines

2.2.14 *Registrations and Deposits*

All plans with the exception of Expropriation Plans (section 3) shall be registered or deposited by the signing surveyor or their agent.

2.3 Expropriation Plans

Expropriation Plans are of particular importance to the ministry because of various statutory requirements that must be strictly observed. Details on expropriation plan types are provided in section 3, but the following key points are listed here for emphasis:

2.3.1 *Ministry format title block and schedule shall be used.*

2.3.2 *Each Expropriation Plan is to show the lands of one landowner only.*

2.3.3 *Expropriation Plans shall be registered by the Ministry.*

2.4 Integration of Surveys

Although MTO has for many years required that surveys of highway lands be georeferenced, Ontario Regulation 216/10 filed June 2010 requires that *all* surveys intended for registration or deposit in the land registration system be integrated with authoritative primary control networks.

For technical survey and plan requirements, reference should be made to O.Reg. 216/10 and any relevant AOLS interpretive guides to the regulations. Notwithstanding those, the following supplemental items are required for MTO projects:

2.4.1 Surveys for Plan Type V to be Integrated

Unless otherwise instructed, surveys for miscellaneous purposes, i.e., plans of type “V”, even when not intended for deposit or registration, shall be integrated.

2.4.2 Accuracy Always to Meet the 0.05 m Specification

Notwithstanding the Performance Standards Regulation, the accuracy of integration for all MTO surveys, whether in urban, rural or remote areas, shall meet the 0.05 metre requirement at the 95% confidence level unless otherwise specified in the project terms of reference.

2.4.3 Datum and Projection

Unless otherwise instructed, the survey and plan shall be co-ordinated in 3° Modified Transverse Mercator (MTM) co-ordinates based on the North American Datum 1983 (NAD83). NAD83 (Original) adjustment coordinates will normally be required due to legacy project information.

Plans of survey of Canada Lands (Type “H”) are also likely to require Universal Transverse Mercator (UTM) coordinates, in accordance with federal survey standards or instructions.

2.4.4 Bearings

The bearings shown on an integrated survey plan shall be grid bearings.

2.4.5 Monument Coordinates

At least two monumented part corners of the surveyed lands, one at either end, shall have their coordinates shown on the plan, to a precision suited to the surveyed accuracy.

2.4.6 Control Coordinates

The co-ordinates of the control (Observed Reference Points or Specified Control Points) used to integrate the surveyed lands shall be shown on the plan.

2.4.7 *Bearing and Distance Ties*

Grid bearing and ground distance ties shall be shown between the control points (in 2.4.5) and monumented part corners (in 2.4.4) to comply with Regulation 216/10 item 18(1)(i)(v).

2.4.8 *CAD File Layer*

The AutoCAD plan drawing's coordinate system shall represent the projection system of the survey and shall have on

- (a) Layer **SP-L-MON**, that is not plotted; the control monuments positioned using their MTM co-ordinates. Ties to the control monuments may be shown broken on the face of the plan.
- (b) Layer **SP-L-PART**, closed polygons representing each new plan Part.

2.5 Legal Plan Types - Background

Prior to 1957, the plans and plan combinations illustrating legal surveys were known by their various names. In 1957, for ease of identification and standardization, a letter of the alphabet was assigned to each type of plan.

The following chart summarizes MTO Legal plan types, their purpose and statutory authority. Note that Plan Types “D”, “P”, and “Y” are no longer in general use and are not included in this manual. Please refer to the previous MTO Legal Plans Manual (Vol. 3.3.2, dated March 2002) for information on these plan types.

2.6 Summary Table for Plan Types

Notes:

(a) For authority, P.T.H.I.A. is the *Public Transportation and Highway Improvement Act*, and E.A. is the *Expropriations Act*.

(b) The unused Type “P” plan in the table is not to be confused with the term “P-Plan” in common use among MTO staff and land surveyors. “P-Plan” refers to all plan types except Z, by virtue of all legal plans being assigned a unique file number with a “P” prefix, such as “P-1234-321”.

PLAN TYPE	NAME	PURPOSE	STATUTORY AUTHORITY
"A"	EXPROPRIATION PLAN	TO EXPROPRIATE PRIVATELY OWNED LANDS	P.T.H.I.A., SUBSECTION 11(1) E.A., SUBSECTION 9(1)
"B"	AMENDED EXPROPRIATION PLAN	TO CORRECT ERRORS OR MISSTATEMENTS IN AN EXPROPRIATION PLAN	P.T.H.I.A., SECTION 9 E.A., SUBSECTION 9(3)
"C"	EXPROPRIATION PLAN (LIMITED INTEREST)	TO EXPROPRIATE LIMITED INTEREST IN LAND (E.G., an EASEMENT)	P.T.H.I.A., SUBSECTION 11(1) E.A., SUBSECTION 9(2)
"D"	ABANDONMENT PLAN (BEFORE 1969) DECLARATION OF ABANDONMENT (AFTER 1969)	TO ABANDON TO THE FORMER OWNER, LANDS ACQUIRED BY A TYPE "A" OR "C" PLAN. THIS IS NOW DONE BY DOCUMENT ONLY, REFERRING TO THE EXPROPRIATION PLAN OR TO A REFERENCE PLAN	E.A., SECTION 41
"E"	CROWN LAND PLAN	TO ACQUIRE JURISDICTION AND CONTROL OF CROWN LAND (ONTARIO)	P.T.H.I.A., SUBSECTION 5(1)
"F"	AMENDED CROWN LAND PLAN	TO CORRECT ERRORS AND MISSTATEMENTS ON A PLAN TYPE "E"	P.T.H.I.A., SECTION 9

"G"	CROWN LAND ABANDONMENT PLAN	TO ILLUSTRATE THE DOCUMENT TO TRANSFER JURISDICTION AND CONTROL OF CROWN LAND BACK TO MINISTRY OF NATURAL RESOURCES	P.T.H.I.A., SUBSECTION 5(2)
"H"	PLAN OF CANADA LANDS	TO ILLUSTRATE CANADA LANDS TO BE CONVEYED BY THE FEDERAL GOVERNMENT TO THE MTO	THE CANADA LANDS SURVEYS ACT, SECTION 29
"I"	PRELIMINARY ASSUMPTION PLAN	TO ACQUIRE AN EXISTING HIGHWAY PRIOR TO A SURVEY BEING MADE	P.T.H.I.A., SUBSECTION 8(2)
"J"	AMENDED PRELIMINARY ASSUMPTION PLAN	TO CORRECT ERRORS OR MISSTATEMENTS IN A PLAN TYPE "I"	P.T.H.I.A., SECTION 9
"K"	ASSUMPTION PLAN (REPLACING)	TO REPLACE ALL OR PART OF A PLAN TYPE "I" AFTER A SURVEY HAS BEEN MADE.	P.T.H.I.A., SUBSECTION 8(2)
"L"	ASSUMPTION PLAN	TO ACQUIRE AN EXISTING HIGHWAY WHERE A SURVEY HAS BEEN MADE. THIS MAY ALSO BE DONE BY A NOTICE OF ASSUMPTION DOCUMENT REFERRING TO A PREVIOUSLY REGISTERED PLAN	P.T.H.I.A., SUBSECTION 8(1)
"M"	AMENDED ASSUMPTION PLAN	TO CORRECT ERRORS OR MISSTATEMENTS IN PLAN TYPES "K" AND "L"	P.T.H.I.A., SECTION 9
"N"	DESIGNATION PLAN OF A PROPOSED HIGHWAY	TO ILLUSTRATE AN O.I.C. DESIGNATING A PROPOSED HIGHWAY AS THE KING'S HIGHWAY OR CONTROLLED-ACCESS HIGHWAY, ETC.	P.T.H.I.A., SECTIONS 7, 36 AND 40
"O"	DESIGNATION PLAN	TO ILLUSTRATE AN O.I.C. DESIGNATING AN EXISTING HIGHWAY AS THE KING'S HIGHWAY OR CONTROLLED-ACCESS HIGHWAY, ETC.	P.T.H.I.A., SECTIONS 7, 36, 40, 41 AND 42
"P"	CONTROLLED-ACCESS HIGHWAY DESIGNATION PLAN. (NOT USED SINCE 1965)	TO ILLUSTRATE AN O.I.C. DESIGNATING A HIGHWAY AS A CONTROLLED-ACCESS HIGHWAY	P.T.H.I.A., SECTION 36
"Q"	PLAN TO REMOVE JURISDICTION AND CONTROL (Formerly "PLAN OF A HIGHWAY")	TO ILLUSTRATE AN O.I.C. REMOVING MINISTRY JURISDICTION AND CONTROL OF A HIGHWAY IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION	P.T.H.I.A., SUBSECTION 29(6)
"R"	TRANSFER PLAN	TO ILLUSTRATE AN O.I.C. TRANSFERRING A HIGHWAY TO A MUNICIPALITY.	P.T.H.I.A., SUBSECTION 29 (4,5)
"S"	ROAD CLOSING PLAN (MTO)	TO ILLUSTRATE AN O.I.C. CLOSING A HIGHWAY UNDER THE JURISDICTION AND CONTROL OF MTO	P.T.H.I.A., SUBSECTION 29(2)

"T"	ROAD CLOSING PLAN (O.M.B.)	TO ILLUSTRATE AN APPLICATION TO THE O.M.B. TO CLOSE A MUNICIPAL ROAD INTERSECTING A CONTROLLED-ACCESS HIGHWAY	P.T.H.I.A., SUBSECTION 37(2)
"U"	REFERENCE PLAN & CROWN LAND REFERENCE PLAN	TO ILLUSTRATE ACQUISITIONS, DISPOSALS, CLOSINGS, ASSUMPTIONS, TRANSFERS ETC.	LAND TITLES ACT, SUBSECTION 150(1), REGISTRY ACT SECTIONS 80 AND 81 AND THE REGULATIONS UNDER THEM
"V"	PLAN OF SURVEY	A MISCELLANEOUS SURVEY (NOT DEPOSITED) TO ILLUSTRATE SURVEY MONUMENTS, ACCIDENT SURVEY, ETC.	IN ACCORDANCE WITH THE SURVEYORS ACT AS REQUIRED
"W"	NAVIGABLE WATERS PLAN	TO ILLUSTRATE AN APPLICATION FOR A PERMIT TO CONSTRUCT A STRUCTURE OVER NAVIGABLE WATERS	NAVIGABLE WATERS PROTECTION ACT, CANADA, SECTIONS 5 AND 9
"X"	CONNECTING LINK DESIGNATION PLAN	TO ILLUSTRATE A MINISTER'S ORDER DESIGNATING THE ROUTE OF A CONNECTING LINK	P.T.H.I.A., SECTION 21
"Y"	MISCELLANEOUS PLAN	PLAN OF HIGHWAY MARKERS FOR ONTARIO PROVINCIAL POLICE AIRCRAFT PATROL.	NONE
"Z"	PLAN OF LOCAL ROADS AREA	TO ILLUSTRATE A MINISTER'S ORDER AND REGULATION THAT DESIGNATES A LOCAL ROADS AREA.	THE LOCAL ROADS BOARDS ACT, SECTIONS 8 AND 16

3 Expropriations

3.1 Expropriation Plan – Type “A”

The purpose of an Expropriation Plan is to expropriate land.

The present policy of this ministry is to negotiate a property settlement and acquire all land by deed or transfer. When this is not possible, expropriation may be necessary but will be used only where either:

- (a) an amicable monetary settlement cannot be negotiated with the land owner, or,
- (b) the owner's title to the land is not clear, or there are other problems involving title or descriptions of the property.

Acquiring land by expropriation is considered to be the purest form of title acquisition in that all right, title and interest in the land is acquired, regardless of the ownership or encumbrances.

By contrast, when land is conveyed by deed, the owner is able to convey only those rights or interests which he has obtained by deed or occupation. This same land could be subject to the rights or interests of others and therefore, the ministry must obtain deeds or releases from all other possible claimants.

3.1.1 Definitions

Expropriate – as defined by the *Expropriations Act* means the taking of land without consent of the owner by an expropriating authority in the exercise of its statutory powers.

Expropriating Authority – means the Crown or any person empowered by statute to expropriate land.

Approving Authority – is the Minister responsible for the administration of the Act in which the power to expropriate is granted.

Vest – means to deliver to a person the full possession of land and so clothe him with the legal estate therein.

Certificate of Approval – is a form prescribed by the Regulations under the *Expropriations Act* which must be executed by the Approving Authority before proceeding with the expropriation.

Hearing of Necessity – an owner who has received a Notice of an Application to Expropriate may, within 30 days ask for an inquiry into the need to take his land. An Inquiry Officer appointed by the Province will hold a formal hearing, at which the expropriating authority must show that the land in question is necessary for the project, hence the name Hearing of Necessity.

3.1.2 Statutory Authority

The Minister is given the power to expropriate land by subsection 11(1) of the *Public Transportation and Highway Improvement Act* using subsection 9(1) of the *Expropriations Act*. For the purposes of the *Expropriations Act*, the Minister of Transportation is an "expropriating authority" as well as an "approving authority" for the expropriation of land for the Ministry of Transportation.

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT

11. (1) The Minister may, in the name of the Crown, acquire by purchase, lease or otherwise or may, without the consent of the owner, expropriate any land he or she considers necessary for the purposes of this Act or for making compensation in whole or in part to any person for land acquired under this Act.

THE EXPROPRIATIONS ACT

9. (1) Where a proposed expropriation has been approved under this Act or under the *Ontario Energy Board Act, 1998*, the expropriating authority shall register, within three months after the granting of the approval, in the proper land registry office a plan of the land signed by the expropriating authority and by an Ontario land surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority.

3.1.3 Effect

When the Ministry of Transportation submits a Type 'A' Expropriation Plan for registration under the authority of the *Expropriations Act* and the *Public Transportation and Highway Improvement Act*, the effect of registration is to vest the land illustrated on the plan in the Crown, under the jurisdiction and control of the ministry. The word "vest" as used in this connection means that the act of registering an Expropriation Plan places all right, title and interest in the Crown. This leaves only the right to compensation to the former owner, which is determined and settled in accordance with the provisions of the *Expropriations Act*.

It cannot be stressed strongly enough that unless all the appropriate steps are executed properly, the expropriation may be declared null and void.

3.1.4 Authorized Signatories

The *Public Transportation and Highway Improvement Act* requires that an Expropriation Plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister;
- the Chief Surveyor of the Ministry.

3.1.5 Plan Combination

An Expropriation Plan and a Limited Interest Expropriation Plan may be combined. The combined plan will show two schedules.

3.1.6 *Plan Requirements*

- (a) The Expropriation Plan must agree with the Notice of Approval to Expropriate Land and the underlying Reference Plan. (The *Expropriations Act* requires that the expropriating authority notify the owner of the intended expropriation or specific interest in land by a Notice of Application for Approval to Expropriate Land, and in most cases, this will make reference to lands shown on a previously deposited Reference Plan.) If any errors are found on the Reference Plan, these should be corrected by showing a comparison measurement on the Type “A” plan. If the error found is substantial (e.g. affecting extent or location of the land to be expropriated), the expropriation process may have to be initiated again.
- (b) Although the Act permits the expropriating authority to acquire less land or a lesser interest in the land than was indicated in the Notice to the owner, under no circumstances may it acquire more land, or a greater interest in the land than was originally advertised. To verify that the Notice has been served, an Affidavit of Service is prepared and retained on file.
- (c) If the acquisition includes land for both the highway corridor and a severance, separate PARTS and areas may be shown for each. This will simplify disposal of the severance at a later date, and also enable the local municipality to determine which lands are subject to taxation.
- (d) The name of the last transferee, the instrument, parcel number or Property Identifier number (PIN) and the area must be shown in the schedule. **Note:** Although prior to 1967 the practice was to include many owners on one Expropriation Plan, it is now policy to include only one owner on each plan.
- (e) Where some of the PARTS being acquired are subject to a registered right or interest such as an easement, it is necessary to show these PARTS in a separate schedule with the appropriate "operating words" if the rights are to be preserved. The name of the owner of the right or interest may be shown as additional information.
- (f) All survey data required to define a natural boundary that forms and controls the position of a boundary of the surveyed parcel shall be shown. The extension of the natural boundary beyond the surveyed parcel shall be reasonably outlined but the corresponding survey data (such as the traverse line) is not required to be shown.

3.1.7 *Operating Words*

The schedule on the Expropriation Plan shall contain operating words outlining the nature of the expropriation.

When preparing the schedule, the operating words must be checked to ensure that they agree with the wording used in the NOTICE OF APPLICATION FOR APPROVAL TO EXPROPRIATE LAND.

When the acquisition is "all right title and interest" with no exceptions, typical wording of the schedule may be:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO LAND(S) IN WHICH ALL RIGHT, TITLE AND INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION.

The operating words used in the schedule of an Expropriation Plan are critical. The expropriation can be quashed if the acquisition as stated in the schedule can be construed to be a greater estate, right or interest in the land than was described in the NOTICE OF APPLICATION FOR APPROVAL TO EXPROPRIATE LAND or in the prescribed newspaper advertisement.

When the acquisition is for "all right, title and interest" with exceptions, the following shall apply:

- (a) An expropriation by the Minister is ineffective against lands or interests in lands held by the Crown in the right of Canada, or lands of companies federally incorporated which are declared to be for the general advantage of two or more of the Provinces, such as Bell Canada, Trans-Canada Pipe Line or railway operational rights-of-way. In addition, federal approval is required prior to expropriating lands held under the *Veterans' Land Act* (Canada). Therefore, expropriation plans prepared by this ministry will be subject to the rights of these companies. Typical wording of the schedule is as follows:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO LAND(S) IN WHICH ALL RIGHT, TITLE AND INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION SUBJECT TO THE RIGHTS OF BELL CANADA AS DESCRIBED IN INSTRUMENT 2345.

- (b) Lands or interests which are not usually expropriated include operational lands or unregistered rights of Hydro One Inc. or Ontario Power Generation Inc., or oil, gas, and gas storage rights. Thus, expropriation plans prepared by this ministry will normally be subject to these rights.

Typical wording of the schedule when dealing with unregistered rights:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO LAND(S) IN WHICH ALL RIGHT, TITLE AND INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION SUBJECT TO THE RIGHTS OF HYDRO ONE.

Typical wording of the schedule when dealing with registered rights:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO LAND(S) IN WHICH ALL RIGHT, TITLE AND INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION, SAVE AND EXCEPT THOSE RIGHTS AND PRIVILEGES OF THE LESSOR AND LESSEE, THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, MORE PARTICULARLY DESCRIBED IN OIL AND GAS LEASE REGISTERED AS INSTRUMENT NUMBER 1234.

3.1.8 Approvals

The *Expropriations Act* requires that every expropriation be approved by the "approving authority", and this must be attested to on every plan submitted for registration. The following statement shall appear in the title block over signature of one of the authorized signatories.

THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. APPROVAL TO EXPROPRIATE THE LANDS SHOWN HEREON WAS GRANTED BY THE MINISTER OF TRANSPORTATION ON THE _____ DAY OF _____ 20____.

The plan must be registered within three months following the date of the approval to expropriate as authorized by the Approving Authority in accordance with subsection 9(1) of the *Expropriations Act*.

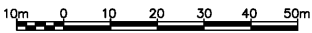
3.1.9 Compiled Plans

According to Section 31 of Ontario Regulation 43/96 made under the *Registry Act*, it is permissible to prepare a partially compiled Expropriation Plan provided the perimeter boundaries are established from actual survey. MGS regional surveyors should be consulted at an early stage if this type of plan is contemplated.

For example, when dealing with a tier of lots in a subdivision, it is permissible to compile the interior lot lines or deed lines from prior surveys or documentary evidence on record in the Land Registry Office. The source of the compiled information must be shown on the plan.

When an Expropriation Plan is partially compiled in the manner mentioned above, the following note in bold print shall be shown adjacent to the title block. This does not refer to the case where a plan type "A" is prepared from a Reference Plan.

THIS PLAN WAS PARTIALLY COMPILED FROM, AND IS A GRAPHIC ILLUSTRATION OF INFORMATION OBTAINED FROM THE SOURCES INDICATED HEREON.

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048		PLAN I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF SIMCOE (No. 51) AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____ AND ENTERED IN THE PARCEL REGISTER FOR PROPERTY IDENTIFIER _____ AND THE CERTIFICATE OF APPROVAL IS REGISTERED AS NUMBER _____ _____ LAND REGISTRAR			
SCHEDULE THE PART ENUMERATED HEREUNDER REFERS TO LAND IN WHICH ALL RIGHT, TITLE AND INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION.					
PART	LOT	CON.	PIN	AREA	NAME OF MOST RECENT TRANSFEREE
1	PART OF 36	5	PART OF 12345-6789 (LT)	1.3043 ha	JOHN DOE
LEGEND ■ DENOTES MONUMENT FOUND □ DENOTES MONUMENT SET MTO DENOTES MINISTRY OF TRANSPORTATION (ONTARIO) MEAS DENOTES MEASURED					
NOTES 1. DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.999962. 2. BEARINGS SHOWN HEREON ARE GRID BEARINGS AND ARE DERIVED FROM THE SOUTHERLY LIMIT OF THE ROAD ALLOWANCE BETWEEN LOTS 36 AND 37 THROUGH CONCESSION 5 HAVING A BEARING OF N73°41'10"E AS SHOWN ON PLAN 51R-30033 AND BASED ON THE MTM COORDINATE SYSTEM, ZONE 10, CENTRAL MERIDIAN 79°30' WEST LONGITUDE.					
<p>PLAN OF SURVEY OF PART OF LOT 36, CONCESSION 5 IN THE GEOGRAPHIC TOWNSHIP OF NOTTAWASAGA TOWN OF COLLINGWOOD COUNTY OF SIMCOE</p> <p>IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT AND THE EXPROPRIATIONS ACT</p> <p>SCALE 1 : 1000</p> 					
SURVEYOR'S CERTIFICATE I CERTIFY THAT: 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM. 2. THE SURVEY WAS COMPLETED ON _____, 20____.			THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. APPROVAL TO EXPROPRIATE THE LAND SHOWN HEREON WAS GRANTED BY THE MINISTER OF TRANSPORTATION ON THE _____ DAY OF _____, 20____ DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____		
DATE _____		<SURVEYOR'S NAME> ONTARIO LAND SURVEYOR		CHIEF SURVEYOR MINISTRY OF TRANSPORTATION	
< MINISTRY OF TRANSPORTATION OR C. OF A. HOLDER >					
HWY 26		MTO USE ONLY W.O. 629-91-00-B1 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS		EXPROPRIATION PLAN TYPE 'A' P-1234-321	
INDEXED UNDER TOWNSHIP OF NOTTAWASAGA SUPERVISOR _____		< NAME > _____		< TITLE > _____	
_____ <MTO REGION>			_____ GEOMATICS PLAN TECHNICIAN		

P-1234-321.DWG

3.2 Amended Expropriation Plan/Document – Type "B"

The purpose of this type of plan or document is to correct any omission, misstatement or erroneous description in an Expropriation Plan or description previously registered in a Land Registry Office.

3.2.1 Statutory Authority for Amending Plan

The authority for amending a plan by which land was expropriated is contained in section 9 of the *Public Transportation and Highway Improvement Act* and subsection 9(3) of the *Expropriations Act*.

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT

9. In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may cause to be registered in the proper land registry office a plan or description replacing or amending such original plan or description and signed by an Ontario land surveyor and one of,

- (a) the Minister;
- (b) the Deputy Minister;
- (c) an Assistant Deputy Minister of the Ministry; or
- (d) the Chief Surveyor of the Ministry,

and a plan registered under this section shall be marked to show the nature of the replacement or and is of the same force and effect as, and is in substitution for, the original plan or description to the extent that such plan or description is replaced or amended thereby.

THE EXPROPRIATIONS ACT

9. (3) In the case of an omission, misstatement or erroneous description in a plan registered under this section, the expropriating authority may register in the proper land registry office a plan replacing or amending the original plan and signed by the expropriating authority and by an Ontario land surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is substituted for, the original plan to the extent that such plan is replaced or amended thereby.

In the past, the Ministry has registered Expropriation Plans under the authority of whichever *Highway Improvement* or *Expropriations Act* was in force at the time. This practice dates back to January 1, 1964 when the first *Expropriation Procedures Act*, 1962-63, came into force. Prior to that, expropriations were carried out under the *Highway Improvement Act*.

In amending an Expropriation Plan, it has been ministry practice to use as its authority:

- (a) the current highway improvement act;
- (b) the current expropriations act; and
- (c) the expropriations act which was in force and under which the Expropriation Plan being amended was initially prepared.

Since the present "highway improvement" and "expropriations" acts are direct descendants of the earlier acts and since they all provide for the amendment of errors, it will only be necessary to quote the current "highway improvement" and "expropriations" acts for the amendment of plans registered after January 1, 1964 and to only quote the present *Public Transportation and Highway Improvement Act* when amending plans registered prior to January 1, 1964.

The authority shall be indicated in the following manner:

- (a) Amending Expropriation Plans Registered Prior To 64 01 01;

IN ACCORDANCE WITH
THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT

- (b) Amending Expropriation Plans Registered from 64 01 01 onward;

IN ACCORDANCE WITH
THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
AND
THE EXPROPRIATIONS ACT

3.2.2 Statutory Authority for Amending Document

A second option available is to file a document to have the Examiner of Surveys make the necessary corrections to the plan registered or deposited in the Registry or Land Titles Division. This is permitted by Section 89 of the *Registry Act* (R.S.O. 1990) and by Subsection 145(6) of the *Land Titles Act* (R.S.O. 1990). Both have the identical wording which is as follows:

An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations.

The regulations referred to above can be found in Section 49, Ontario Regulation 43/96 made under the *Registry Act*.

The current policy of the Ministry of Government Services, Policy and Regulatory Services Office, as set out in Bulletin 2002-6, is to not implement plan correction procedures "for errors, defects or omissions in registered or deposited plans that are of an inconsequential nature or for altering the boundaries of subdivision units created by a registered or deposited plan".

As a result, a new plan will generally need to be prepared where the Ministry is required to amend a previously registered expropriation.

3.2.3 *Effect*

When registered, an Amended Expropriation Plan or an order to correct a plan under subsection 49(6) Ontario Regulation 43/96 is of the same force and effect and is in substitution for and replaces the original plan.

3.2.4 *Authorized Signatories*

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry.

3.2.5 *Plan Combination*

An Amended Expropriation Plan shall not be combined with any other type of plan.

3.2.6 *Plan Requirements*

- (a) An explanatory note indicating the nature of the amendment and a clearly worded explanation or reason for the amendment must appear adjacent to the title block on all amending plans.
- (b) The word "amended" must appear immediately after the distance, bearing or area amended by the plan.
- (c) Expropriation Plans shall be amended so that the original plan will be replaced for the whole of each PART (UNIT), or in the case of a plan using colour, each owner affected. (An Amended Expropriation Plan shall pertain only to those lands under the jurisdiction of the ministry.)
- (d) Lands which were acquired by an Expropriation Plan, but which have since been disposed of by the ministry, shall be illustrated on the amended plan by dashed lines. Correct bearings and distances shall be shown on the limits of these lands using "Plan" and "Meas".
- (e) The policy of the ministry is to show as the owner the name of the individual who had title to the land at the time of the expropriation which is being amended, even though the remainder of the property may have changed ownership.
- (f) If a tie to a lot corner that was used in a "metes and bounds" description on the original Expropriation Plan is being amended, then each described portion of land, which was related to the corner in question by means of the incorrect tie, shall be redefined as a separate part on the Amended Expropriation Plan.

3.2.7 *Operating Words*

The operating words in the schedule will vary according to the circumstances. Typical wording is as follows:

- (a) Amending an Expropriation Plan that used colour for identification;

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN ON PLAN 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

- (b) Amending an Expropriation and Plan that was accompanied by descriptions;

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN ON PLAN 46098 (P-3314-2) WITH ANNEXED DESCRIPTION(S) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN AND DESCRIPTION(S) ARE HEREBY AMENDED.

or, if the Plan and descriptions were assigned separate registration numbers;

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN ON PLAN 46098 (P-3314-2) AND DESCRIBED IN INSTRUMENT NO. _____ REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN AND DESCRIPTION(S) ARE HEREBY AMENDED.

- (c) Amending an Expropriation Plan that used the PART system for identification;

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN AS PARTS 11 AND 12, ON PLAN 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

- (d) Amending a Expropriation Plan that used the "UNIT" or "LOT" system for identification;

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN AS UNITS (LOTS) 11 and 12, ON PLAN 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

- (e) Amending more than one Expropriation Plan;

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN ON PLANS 46098 (P-3314-2) AND 56057 (P-3314-36) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLANS ARE HEREBY AMENDED.

or,

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN AS PARTS (UNITS) 11 AND 12 ON PLAN 46098 (P-3314-2), SHOWN AS PARTS (UNITS) 6 AND 7 ON PLAN 47122 (P-3314-16) AND SHOWN AS PARTS (UNITS) 3 AND 4 ON PLAN 56057 (P-3314-16), ALL REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLANS ARE HEREBY AMENDED.

or,

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN ON PLANS 46098 (P-3314-2) AND DESCRIBED IN INSTRUMENT _____, PLAN 47122 (P-3314-16) AND DESCRIBED IN INSTRUMENT NO _____ AND SHOWN AS PARTS (UNITS) 3 AND 4 ON PLAN 56057 (P-3314-36), ALL REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLANS AND DESCRIPTIONS ARE HEREBY AMENDED.

(f) Amending an Expropriation Plan where the expropriation was subject to a right;

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN ON PLAN 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

or,

THE PARTS (UNITS) SHOWN ON PLAN 46098 (P-3314-2) BEING HEREBY AMENDED REFER TO LANDS THAT ARE SUBJECT TO AN EASEMENT IN FAVOUR OF _____ AS DESCRIBED IN INSTRUMENT NUMBER _____ .

(g) Amending an Expropriation Plan that was for a limited interest;

THE PARTS AMENDED HEREUNDER REFER TO LANDS SHOWN ON PLAN 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

THE LANDS SHOWN ON PLAN 46098 (P-3314-2) BEING HEREBY AMENDED REFER TO LANDS IN WHICH A LIMITED INTEREST WAS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION IN THE NATURE OF (state the nature of the limited interest as shown on the Expropriation Plan being amended).

or,

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS SHOWN AS PARTS (UNITS) 11 AND 12, ON PLAN 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

or,

THE PARTS (UNITS) SHOWN ON PLAN 46098 (P-3314-2) BEING HEREBY AMENDED REFER TO LANDS IN WHICH A LIMITED INTEREST WAS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION IN THE NATURE OF (state the nature of the limited interest as shown on the Expropriation Plan being amended.)

Due to varied terminology used in the past, such as LOTS, UNITS, PARTS, etc., and different procedures followed in various Land Registry Offices from time to time, it is impossible to provide operating words for all situations. Therefore the foregoing examples will have to be modified as required.

3.2.8 *Approval*

The decision to amend an Expropriation Plan must not be taken lightly. The Regional Geomatics Section will assess the situation in consultation with the Geomatics Office to determine if the problem can be resolved by using measurement comparisons (Plan and Meas.) before the decision is made to prepare an amending plan.

3.2.9 *Addition or Deletion of Land*

Except under specific instructions approved by the Legal Services Branch of the ministry, an Amended Expropriation Plan shall not be prepared in such a way as to add to land acquired by the original expropriation plan or to delete from land shown thereon.

3.2.10 *Special Conditions*

On occasion errors will be found in previously registered Expropriation Plans which do not affect the dimensions of a PART or were not used in a "metes and bounds" description, such as transposed or incorrect dimensions on traverse lines, incorrect lot or plan numbers, spelling mistakes, etc.

For cases such as these, a modified Amended Expropriation Plan with no heavy outline PARTS or SCHEDULE may be prepared. The explanatory note must clearly state the purpose of the plan and the nature of the amendment.

Form 14

APPLICATION TO CORRECT A PLAN

(Subsection 49(3) of Ontario Regulation 43/96)

IN THE MATTER of Plan No. _____ registered (or deposited) in the Land Registry Office for the Land Titles (or Registry) Division of _____.

To the Examiner of Surveys:

I, _____ of the _____ of _____ in the _____ of _____ apply to have the following correction(s) made to the above-mentioned Plan _____:

(Here give itemized and detailed particulars of the correction(s) required)

A copy of the Plan _____ (or the relevant portion of it) is attached with the proposed correction(s) noted on it.

The following evidence is submitted in support of this application:

(1) The signed statement of an Ontario Land Surveyor setting out the nature of the error, defect or omission in the plan, specifying the correction that is required and providing the evidence to support the correction; OR

(2) (Specify the evidence in support of the application.)

Date _____

Address of applicant for service of notice:

(Signature of Applicant)

Form 15

CERTIFICATE OF CORRECTION

Corrected under an order of the Examiner of Surveys registered as No. _____

(Date)

Examiner of Surveys/Land Registrar

NOTE:
THE PURPOSE OF THIS PLAN IS TO SHOW THE
CORRECT POSITION OF THE LINE BETWEEN
LOTS 35 AND 36, CONCESSION 5.

METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN
METRES AND CAN BE CONVERTED TO FEET
BY DIVIDING BY 0.3048

PLAN

I CERTIFY THAT THIS PLAN IS REGISTERED IN THE
LAND REGISTRY OFFICE FOR THE LAND TITLES
DIVISION OF SIMCOE (No. 51) AT
_____ O'CLOCK ON THE _____ DAY OF
_____, 20____ AND ENTERED IN

IN THE PARCEL REGISTER FOR

PROPERTY IDENTIFIER _____ AND
THE CERTIFICATE OF APPROVAL IS REGISTERED AS
NUMBER _____

LAND REGISTRAR

SCHEDULE

THE PART ENUMERATED HEREUNDER REFERS TO LAND SHOWN AS PART 1 ON PLAN 747 (P-1234-321)
REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF SIMCOE, WHICH PLAN
IS HEREBY AMENDED.

PART	LOT	CON.	PIN	AREA	NAME OF MOST RECENT TRANSFEREE
1	PART OF 36	5	PART OF 12345-6789 (LT)	1.3043 ha	JOHN DOE

LEGEND

■ DENOTES MONUMENT FOUND
□ DENOTES MONUMENT SET
MTO DENOTES MINISTRY OF TRANSPORTATION (ONTARIO)
MEAS DENOTES MEASURED

NOTES

- DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO
COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.999962.
- BEARINGS SHOWN HEREON ARE GRID BEARINGS AND ARE DERIVED FROM THE SOUTHERLY LIMIT OF
THE ROAD ALLOWANCE BETWEEN LOTS 36 AND 37 THROUGH CONCESSION 5 HAVING A BEARING OF
N73°41'10"E AS SHOWN ON PLAN 51R-30033 AND BASED ON THE ONTARIO COORDINATE SYSTEM,
ZONE 10, CENTRAL MERIDIAN 79°30' WEST LONGITUDE.

PLAN OF SURVEY OF
PART OF LOT 36, CONCESSION 5
IN THE GEOGRAPHIC TOWNSHIP OF
NOTTAWASAGA
TOWN OF COLLINGWOOD
COUNTY OF SIMCOE

IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND
HIGHWAY IMPROVEMENT ACT AND THE EXPROPRIATIONS ACT

SCALE 1 : 1000

10m 0 10 20 30 40 50m

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND
IN ACCORDANCE WITH THE SURVEYS ACT,
THE SURVEYORS ACT AND THE LAND TITLES
ACT AND THE REGULATIONS MADE UNDER
THEM.
- THE SURVEY WAS COMPLETED ON
_____, 20____.

THIS PLAN IS PREPARED UNDER INSTRUCTIONS
AND I HEREBY MAKE APPLICATION THAT IT BE
REGISTERED IN THE PROPER LAND REGISTRY
OFFICE. APPROVAL TO EXPROPRIATE THE LAND
SHOWN HEREON WAS GRANTED BY THE
MINISTER OF TRANSPORTATION ON THE
_____ DAY OF _____, 20____
DATED AT ST. CATHARINES THIS _____ DAY
OF _____, 20____.

DATE

<SURVEYOR'S NAME>
ONTARIO LAND SURVEYOR

CHIEF SURVEYOR
MINISTRY OF TRANSPORTATION

< MINISTRY OF TRANSPORTATION OR C. OF A. HOLDER >

MTO USE ONLY		AMENDED EXPROPRIATION PLAN TYPE 'B' P-1234-322
HWY 26	W.O. 629-91-00-B2 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS	
INDEXED UNDER TOWNSHIP OF NOTTAWASAGA	< NAME > _____ < TITLE > _____	
SUPERVISOR	GEOMATICS PLAN TECHNICIAN	

<MTO REGION>

P-1234-322.DWG

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3.3 Expropriation Plan (Limited Interest) – Type “C”

The purpose of this type of plan is to expropriate land for a limited time only, or a limited estate, right or interest in land.

A limited estate, right or interest may include the use of land for a specified purpose either for a limited time or in perpetuity. A right can be surface rights only in land, while a specified purpose may provide ingress or egress to other lands in the form of an easement, the use of land for drainage purposes, the temporary diversion of a road or railway, or the diversion of a creek.

3.3.1 Definitions

Limited Interest – an interest, estate or right that is restricted or confined within positive bounds, or restricted in duration, extent or scope.

Easement – a right enjoyed by the owner of land over the lands of another, such as a right-of-way, etc. An easement must exist for the accommodation and better enjoyment of the land to which it is annexed.

Perpetuity – never ceasing, unlimited in respect of time, continuing without intermission or interval.

Ingress and Egress – when creating a right-of-way or easement the words "for the purpose of ingress and egress" are commonly used. This simply means the right to enter, go upon and return from the lands in question.

Expropriate – as defined by the *Expropriations Act* means the taking of land without consent of the owner by an expropriating authority in the exercise of its statutory powers.

Expropriating Authority – means the Crown or any person empowered by statute to expropriate land.

Approving Authority – is the Minister responsible for the administration of the Act in which the power to expropriate is granted.

Vest – means to deliver to a person the full possession of land and so clothe him with the legal estate therein.

Certificate of Approval – is a form prescribed by the Regulations under the *Expropriations Act* which must be executed by the Approving Authority before proceeding with the expropriation.

3.3.2 Statutory Authority

The Minister is given the power to expropriate limited interest in land by subsection 11(1) of the *Public Transportation and Highway Improvement Act* and by subsection 9(2) of the *Expropriations Act*. For the purpose of the *Expropriations Act*, the Minister of Transportation is an "expropriating authority" and the "approving authority" for the expropriation of land for the Ministry of Transportation.

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT

11. (1) The Minister may, in the name of the Crown, acquire by purchase, lease or otherwise or may, without the consent of the owner, expropriate any land he or she considers necessary for the purposes of this Act or for making compensation in whole or in part to any person for land acquired under this Act.

THE EXPROPRIATIONS ACT

9. (2) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority.

3.3.3 *Effect*

When the Ministry of Transportation registers an Expropriation Plan (Limited Interest) under the authority of the *Expropriations Act* and the *Public Transportation and Highway Improvement Act*, the effect of registration is to vest the limited interest as stated by the operating words in the schedule, in the Crown under the jurisdiction and control of the ministry. The word "vest" as used in this context means that the act of registration of an Expropriation Plan (Limited Interest), places the stated rights and interests in the Crown leaving only the right of compensation to the former owner, which is determined and settled in accordance with the provisions of the *Expropriations Act*.

In those cases where expropriation is for a limited time, the ministry's interest is extinguished on the date mentioned in the operating words in the schedule. The title to the land then revests in the registered owner.

3.3.4 *Authorized Signatories*

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry.

3.3.5 *Plan Combination*

Under certain circumstances an Expropriation Plan and an Expropriation Plan (Limited Interest) may be combined. For example: a combination plan should be prepared when the expropriation of a property involves "all right, title and interest" for one PART, and "a limited interest" for another PART. In this case, the combined plan will show two schedules.

3.3.6 *Plan Requirements*

- (a) The Expropriation Plan must agree with the Notice of Approval to Expropriate Land, and the underlying Reference Plan. However, any errors found on the Reference Plan should be corrected. In most cases this may be done by the use of "plan and meas" but if a major error is detected (e.g. affecting extent or location of the land to be expropriated) then the expropriation process may have to be initiated again.

The procedures contained in the *Expropriations Act* are such that the expropriating authority must notify the owner of the intention to expropriate land and specific interests in land by a Notice of Application for Approval to Expropriate Land. In most cases reference is made in these Notices to lands shown on a previously deposited Reference Plan. Although the Act permits the expropriating authority to acquire less land or a lesser interest in the land than was indicated in the Notice to the owner, under no circumstances may it acquire more land, or a greater interest in the land than was originally intended.

- (b) If the acquisition includes land for both the highway right-of-way and a severance, separate PARTS and areas must be shown for each. This will simplify disposal of the severance at a later date and also enable the local municipality to determine lands that are subject to taxation. (Right-of-Way is exempt from taxation).
- (c) The owner's name, the instrument or parcel number and the area must be shown in the schedule.

3.3.7 *Operating Words*

The schedule on the Expropriation Plan (Limited Interest) shall contain operating words outlining the nature of the expropriation.

Note: The operating words used in the schedule of an Expropriation Plan (Limited Interest) are critical in that the expropriation can be quashed if the acquisition as described in the schedule can be construed to be a greater estate, right or interest in the lands than was described in the NOTICE OF APPLICATION FOR APPROVAL TO EXPROPRIATE LAND or in the newspaper advertisement.

Typical wording of the schedule:

Surface Rights

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS IN WHICH SURFACE RIGHTS ONLY ARE EXPROPRIATED BY THE MINISTER OF TRANSPORTATION.

Easement

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS IN WHICH A LIMITED INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION IN THE NATURE OF A FREE RIGHT AND EASEMENT FOR HIMSELF, HIS SUCCESSORS AND ASSIGNS, AND HIS AND THEIR EMPLOYEES, SERVANTS AND AGENTS TO ENTER WITH ALL NECESSARY VEHICLES, MACHINERY AND EQUIPMENT TO CONSTRUCT

AND MAINTAIN RETAINING WALL FOOTINGS IN, OVER AND UPON THE FOLLOWING LANDS.

Easement with Time Limitation

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS IN WHICH A LIMITED INTEREST UP TO AND INCLUDING JANUARY 31ST, 2012, IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION IN THE NATURE OF A FREE RIGHT AND EASEMENT FOR HIMSELF, HIS SUCCESSORS AND ASSIGNS, AND HIS AND THEIR EMPLOYEES, SERVANTS AND AGENTS TO ENTER WITH ALL NECESSARY VEHICLES, MACHINERY AND EQUIPMENT TO CONSTRUCT AND MAINTAIN A TEMPORARY TRAFFIC DETOUR OVER WHICH THE PUBLIC MAY TRAVEL AT WILL IN, OVER AND UPON THE FOLLOWING LANDS.

Right-of-Way

THE PARTS ENUMERATED HEREUNDER REFER TO LANDS IN WHICH A LIMITED INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION IN THE NATURE OF A RIGHT-OF-WAY FOR HIMSELF, HIS SUCCESSORS AND ASSIGNS, AND HIS AND THEIR EMPLOYEES, SERVANTS AND AGENTS, FOR ALL THE USUAL PURPOSES OF INGRESS AND EGRESS.

Leasehold Lands Under the *Land Titles Act*

Where a leasehold parcel has been created under the *Land Titles Act* by the registration of a lease from the Crown, an Expropriation Plan (Limited Interest - type "C") shall be registered to acquire the Leasehold interest and a Crown Land Plan - type "E" shall be registered to acquire jurisdiction and control of the reversionary interest.

The schedule shall be worded:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO LAND(S) IN WHICH A LIMITED INTEREST IS EXPROPRIATED BY THE MINISTER OF TRANSPORTATION IN THE NATURE OF A LEASEHOLD ESTATE FOR _____ YEARS TERMINATING ON _____ .

In the case where a leasehold parcel has been created under the *Land Titles Act* by the registration of a lease from a private individual, the registration of an Expropriation Plan will acquire both the leasehold interest and the reversionary interest. The parcel number and the leasehold number shall be noted in the schedule.

Where a leasehold interest is held by an agency such as Bell Canada, over which the ministry does not have power of expropriation, direction shall be obtained from the Legal Services Branch.

NOTE: If a lease has been entered as a Caution or Notice against a parcel in the Land Titles Division, or registered in the Registry Division, no action will be taken in respect to the lease, but the reversionary interest shall be acquired by a Crown Land Plan - type "E".

3.3.8 *Approval*

The *Expropriations Act* requires that every expropriation be approved by the "approving authority" and this must be attested to on every plan submitted for registration. The following statement shall be shown in the title block over the signature of one of the authorized signatories:

THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. APPROVAL TO EXPROPRIATE THE LANDS SHOWN HEREON WAS GRANTED BY THE MINISTER OF TRANSPORTATION ON THE _____ DAY OF _____ 20____ .

When the statement appears on the plan in this manner, the Certificate of Approval must be registered prior to the plan being registered.

The plan must be registered within three months following the date of the approval to expropriate as authorized by the approving authority.

3.3.9 *Compiled Plans*

In accordance with section 31 of Ontario Regulation 43/96 made under the *Registry Act*, it is permissible to prepare a partially compiled Expropriation Plan so long as the perimeter boundaries are established from actual survey.

For example, when dealing with a tier of lots in a subdivision, it is permissible to compile the interior lot lines or deed lines from prior surveys or documentary evidence on record in the Land Registry Office. The sources of the compiled information must be shown on the plan.

When an expropriation plan is partially compiled the following note in bold print shall be shown adjacent to the title block:

THIS PLAN WAS PARTIALLY COMPILED FROM, AND IS A GRAPHIC ILLUSTRATION OF INFORMATION OBTAINED FROM THE SOURCES INDICATED HEREON.

3.3.10 *Special Conditions*

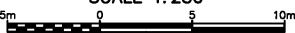
- (a) Prior to 1913 many patents were issued under the *Public Lands Act*, which reserved all ores, mines and minerals in the name of the Crown. Subsequent amendment to the *Public Lands Act* restored these rights to the then current owner, providing they had not been previously patented. In these cases, it should be interpreted that where the reservation is included in the instrument, it is null and void, unless a separate Crown Grant exists for the mining rights.

Some original land grants may have specified "surface rights only" but subsequent transactions, particularly lands registered in the Registry Division, make no mention of this reservation. Therefore, a title searcher should ensure that no prior owner has retained any rights to the land for his own use or that he has transferred to anyone rights which he does not own.

During the early development of the Province, large tracts of land, mainly in south western Ontario, were granted to the Canada Company which in turn subdivided these lands into townships, lots, blocks, etc. When the Canada Company sold the lands, it reserved to the company the mineral rights. In 1919, the Canada Company "quit-claimed" these rights to Crown Ontario. By statutes passed in 1922 and 1923, Crown Ontario was authorized to sell and convey these rights to the owners.

Therefore, an Expropriation Plan (Limited Interest) will be prepared only where the Land Registry Office deed or the Property Office agreement specifies "surface rights only", or where a separate Crown Grant excludes the mining rights.

- (b) Patents were also issued under the *Mining Act* for:
 - (i) "Mining Lands" including surface and mining rights, in which case, an Expropriation Plan shall be prepared;
 - (ii) "Mining Rights Only" including the ores, mines and minerals under the lands which are to be used for mining purposes only; in this very unusual case, an Expropriation Plan (Limited Interest) shall be prepared;
 - (iii) "Surface Rights Only" including every right in land except the mining rights; an Expropriation Plan (Limited Interest) shall be prepared.

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048		PLAN I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF _____ AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____ AND ENTERED IN THE PARCEL REGISTER FOR PARCEL _____ SECTION _____ AND THE CERTIFICATE OF APPROVAL IS REGISTERED AS NO. _____ _____ LAND REGISTRAR			
SCHEDULE THE PART ENUMERATED HEREUNDER REFERS TO LAND IN WHICH SURFACE RIGHTS ONLY ARE EXPROPRIATED BY THE MINISTER OF TRANSPORTATION.					
PART	LOT	PLAN	PARCEL	AREA	NAME OF MOST RECENT TRANSFEREE
1	PART OF 14	M-153	PART OF 10468 T.B.F.	56.2 m ²	JANE R. DOE (SURFACE RIGHTS ONLY)
LEGEND <input checked="" type="checkbox"/> DENOTES MONUMENT FOUND <input type="checkbox"/> DENOTES MONUMENT SET MTO DENOTES MINISTRY OF TRANSPORTATION (ONTARIO) P DENOTES PLAN 55R-10166 (P-3484-12) HM DENOTES HOWARD M. GRAHAM LIMITED S DENOTES SET T.B.F. DENOTES THUNDER BAY FREEHOLD NOTE BEARINGS ARE ASTRONOMIC, DERIVED FROM THE SOUTHERLY LIMIT OF PART 1 PLAN 55R-10166 (P-3484-12) HAVING A BEARING OF N70°54'30"W AND REFERRED TO THE MERIDIAN THROUGH THE INTERSECTION OF THE EAST BOUNDARY OF THE DISTRICT OF THUNDER BAY AND THE CENTRE LINE OF THE KING'S HIGHWAY 11 (LONGITUDE 85°20'W).					
PLAN OF SURVEY OF PART OF LOT 14 REGISTERED PLAN M-153 IN THE MUNICIPALITY OF GREENSTONE DISTRICT OF THUNDER BAY IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT AND THE EXPROPRIATIONS ACT SCALE 1:250 					
SURVEYOR'S CERTIFICATE I CERTIFY THAT: 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM. 2. THE SURVEY WAS COMPLETED ON THE _____ DAY OF _____, 20____			THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. APPROVAL TO EXPROPRIATE THE LAND SHOWN HEREON WAS GRANTED BY THE MINISTER OF TRANSPORTATION ON THE _____ DAY OF _____, 20____ DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____		
_____ DATE < NAME > ONTARIO LAND SURVEYOR			_____ CHIEF SURVEYOR MINISTRY OF TRANSPORTATION		
< MINISTRY OF TRANSPORTATION OR C. OF A. HOLDER >					
HWY 11		MTO USE ONLY W.P. 381-90-01-D PLAN AGREES WITH INSTRUCTIONS AND APPROVALS		EXPROPRIATION PLAN TYPE 'C' P-3484-14	
INDEXED UNDER TOWNSHIP OF DALEY SUPERVISOR		< NAME >		< TITLE >	
		_____ GEOMATICS PLAN TECHNICIAN			
< MTO REGION >				P-3484-14.DWG	

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4 Crown Lands

4.1 Crown Land Plan – Type “E”

The purpose of this type of plan is to acquire jurisdiction and control of unpatented Crown lands which are under the legislative jurisdiction of the Province and controlled by the Ministry of Natural Resources.

4.1.1 Definitions

Public Lands - unpatented lands in the Province which are administered by the Ministry of Natural Resources under the provisions of the *Public Lands Act*.

Crown Lands – for the purpose of the *Public Transportation and Highway Improvement Act*, this is now interpreted as meaning all unpatented lands under the jurisdiction and control of the Ministry of Natural Resources.

Lease - a conveyance or grant of the possession of property for a term of years or other fixed period usually with the reservation of a rent. A lease must specify the period during which the lease is to endure. The beginning and the end of the term must be clearly specified. The person who grants the lease is called the lessor and the person to whom it is granted is called the lessee. A lease must be for a lesser estate than the lessor has in property otherwise it is a conveyance and not a lease.

Leasehold Lands – Public lands on which a lease has been granted by the Crown.

Mining Rights – means the ores, mines and minerals on or under any land where they are or have been dealt with separately from the surface rights.

Surface Rights – means every right in the land other than the mining rights.

Alienated Crown Land – means Crown land, vested in the Ministry of Natural Resources, over which a right or title has been transferred from the Crown to a person or organization.

4.1.2 Statutory Authority

Subsection 5(1) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, authorizes the Minister to acquire jurisdiction and control of Crown land.

5. (1) Where the Minister desires to acquire any Crown lands not under the jurisdiction and control of the Ministry that he or she considers necessary for the purposes of the Ministry, the Minister shall deposit with the Minister of Natural Resources and register in the proper land registry office a plan of the land to be known and marked "Crown Land Plan/Plan des terres de la Couronne" and thereupon the land is under the jurisdiction and control of the Ministry.

4.1.3 *Effect*

When the plan has been deposited with the Minister of Natural Resources and subsequently registered in the proper Land Registry Office, the jurisdiction and control of the land becomes vested in the Ministry of Transportation.

Because the subject land is already in the name of “Crown Ontario”, the jurisdiction and control of the land is transferred from the Ministry of Natural Resources to the Ministry of Transportation. The land remains in the name of “Crown Ontario”.

4.1.4 *Authorized Signatories*

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry.

4.1.5 *Plan Combination*

A Crown Land Plan - type "E" may be combined with an Amended Crown Land Plan - type "F" and an Assumption Plan - Replacing - type "K" and under certain circumstances an Amended Assumption Plan - type "M".

4.1.6 *Plan Requirements*

- (a) In isolated areas, a key plan shall be shown to help locate the subject land.
- (b) In unsurveyed territory, show the latitude and longitude of the site to be shown in the title block to the nearest minute.
- (c) On all Crown Land Plans located within an incorporated municipality, have the Geographic Township recited in the title portion of the title block as well as in the schedule.

4.1.7 *Operating Words*

The schedule shall contain the following operating words:

THE PARTS ENUMERATED HEREUNDER ARE VESTED IN THE
CROWN AND ARE UNDER THE JURISDICTION AND CONTROL OF THE
MINISTRY OF TRANSPORTATION.

4.1.8 Approval

The Property Request is the authority and approval for the preparation of the plan.

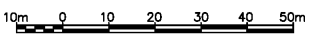
4.1.9 Supplemental Material

- (a) Surface Rights Only - A Crown Land Plan may be prepared to acquire "Surface Rights Only" if the "Mining Rights" have been previously patented or leased. If this occurs, the words "Surface Rights Only" should be added in the "Area" column of the schedule.
- (b) Beds of Navigable Waters - When a Crown Land Plan is prepared to acquire jurisdiction and control of the bed of a navigable body of water, the "location" column of the schedule shall indicate "Bed of _____".
- (c) Registered Leasehold Interests - When a registered leasehold parcel exists in Crown land, the leasehold interest should be acquired by either transfer or expropriation, and a Crown Land Plan shall be prepared to acquire the reversionary interest. The policy established between M.T.O. and M.N.R. requires that the leasehold interest be acquired by M.T.O. prior to filing the Crown Land Plan. The registered leasehold interest shall be noted in the schedule.
- (d) Longitude and Latitude to the nearest minute of any land in unsurveyed territory must be shown in the title block.
- (e) Geographic Township must be shown in the title block on all plans, even if the subject lands are located within a registered plan of subdivision.
- (f) Consult the current *Instructions Governing Ontario Crown Land Surveys and Plans* issued by the Surveyor General for the Province of Ontario for specific direction when dealing with natural boundaries.
- (g) CAD file of PART polygons: A CAD file shall also be provided according to Appendix D of the MNR Crown Land instructions.

4.1.10 Special Conditions

The *Public Transportation and Highway Improvement Act* authorizes the ministry to acquire jurisdiction and control of Crown land but does not differentiate between unpatented and alienated Crown land. However, if patented lands are registered in the name of the Ministry of Natural Resources, a Crown Land Plan shall not be used. Jurisdiction and control must be acquired by an Order in Council, prepared by M.N.R. and illustrated on an M.T.O. Reference Plan.

If a title search or investigation discloses that land is registered in the right of Ontario, without specifying a ministry name, it is presumed to be under the jurisdiction of the Minister of Public Infrastructure Renewal (formerly Chair of Management Board of Cabinet and Ministry of Government Services). An Order in Council illustrated by a Reference Plan must be used to acquire jurisdiction and control of such land. The same procedure is used when the land is under the jurisdiction and control of a specified ministry.

<p align="center">CROWN LAND CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN WAS DEPOSITED IN THE OFFICE OF THE MINISTRY OF NATURAL RESOURCES AT PETERBOROUGH THIS _____ DAY OF _____, 20____</p> <p>FILE _____</p> <p align="center">_____ <NAME> SURVEYOR GENERAL</p>		<p align="center">PLAN _____</p> <p>I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF _____ AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____.</p> <p align="right">_____ LAND REGISTRAR</p>											
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<p align="center"><MTO REGION></p>		<p align="center">P-2190-77.DWG</p>											

4.2 Amended Crown Land Plan – Type “F”

The purpose of this type of plan is to correct any omissions, misstatements or erroneous description in a Crown Land Plan.

4.2.1 Definitions

Laid Down – prior to 1957 when the Department of Highways wished to acquire Crown land, a copy of the plan was sent to the Department of Lands and Forests who in turn recorded this information on the Patents Plan, and in appropriate files. The procedure was referred to as being, "laid down in the Department of Lands and Forests."

4.2.2 Statutory Authority

Section 9 of the *Public Transportation and Highway Improvement Act* is the authority for amending plans or descriptions that are prepared in accordance with the Act.

9. In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may cause to be registered in the proper land registry office a plan or description replacing or amending such original plan or description and signed by an Ontario land surveyor and one of,

- (a) the Minister;
- (b) the Deputy Minister;
- (c) an Assistant Deputy Minister of the Ministry; or
- (d) the Chief Surveyor of the Ministry,

and a plan registered under this section shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan or description to the extent that such plan or description is replaced or amended thereby.

4.2.3 Effect

When an Amended Crown Land Plan is deposited with the Minister of Natural Resources and registered in the Land Registry Office, it is of the same force and effect and is in substitution for and replaces the original plan and or description to the extent that the original is amended.

4.2.4 Authorized Signatories

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;

- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry.

4.2.5 Plan Combination

An Amended Crown Land Plan may be combined with a Crown Land Plan - type "E" or an Amended Assumption Plan - type "M".

4.2.6 Plan Requirements

- An explanatory note indicating the nature of the amendment and a clearly worded explanation or reason for the amendment must appear adjacent to the title block on all amending plans.
- The word "amended" must appear immediately after every distance, bearing or area amended by the plan.
- Crown Land Plans shall be amended so that the original plan will be replaced for the whole of each PART, or in the case of a plan using colour, each lot affected.
- In an unsubdivided township or unsurveyed territory, where the right-of-way is a continuous portion of the plan, it is not necessary to redraw the whole plan when the error to be corrected can be isolated to a small section. An explanatory note should appear on the face of the plan to explain the amendment and no parts or schedule are necessary.
- An Amended Crown Land Plan shall pertain only to those lands under the jurisdiction of this ministry. Lands which have been disposed of by this ministry shall be shown on the amended plan by dashed lines. Correct bearings and distances shall also be shown on the limits of these lands as "Plan" and "Meas".
- If the original Crown Land Plan was registered under the *Registry Act*, the amending plan should also be registered under that Act.
- In unsurveyed territory the Ministry of Natural Resources show the latitude and longitude of the site in the title block to the nearest minute.
- On all Crown Land Plans located within an incorporated municipality, include the Geographic Township in the title portion of the title block as well as in the schedule.

4.2.7 Operating Words

The operating words in the schedule will vary according to the circumstances. Typical wording is as follows:

- (a) When amending a Crown Land Plan that was prepared prior to 1957 which was not registered, the schedule shall read;

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO (A) PORTION(S) OF LAND SHOWN ON PLAN P- _____ WHICH WAS LAID DOWN IN THE MINISTRY OF NATURAL RESOURCES ON _____, PURSUANT TO THE PROVISIONS OF THE PUBLIC WORKS ACT, WHICH PLAN IS HEREBY AMENDED.

- (b) When amending a Crown Land Plan that was prepared after 1957 that used colour for identification, the schedule should read;

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO LANDS SHOWN ON PLAN NO. _____ (P- _____) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

- (c) When amending a Crown Land Plan that used the PARTS for identification, the schedule should read;

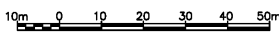
THE PART(S) ENUMERATED HEREUNDER REFER(S) TO LANDS SHOWN AS PARTS(S) _____ ON PLAN NO. _____ (P- _____) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

4.2.8 Approval

The decision to amend a Crown Land Plan must not be taken lightly. The Regional Geomatics Section will assess the situation in consultation with the Geomatics Office to determine if the problem can be resolved by using measurement comparisons ("Plan" and "Meas") before the decision is made to prepare an amending plan.

4.2.9 Special Conditions

On occasion, errors will be found in previously filed Crown Land Plans which do not affect the dimensions of a PART or were not used in a "metes and bounds" description. These errors may be transpositions or incorrect dimensions on centerline or tie lines, incorrect lot or plan numbers, spelling mistakes, etc. For these cases, a modified Amended Crown Land Plan with no heavy outlined PARTS or SCHEDULE may be prepared. The explanatory note must clearly state the purpose of the plan and the nature of the amendment.

<p align="center">CROWN LAND CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN WAS DEPOSITED IN THE OFFICE OF THE MINISTRY OF NATURAL RESOURCES AT PETERBOROUGH THIS _____ DAY OF _____, 20____.</p> <p>FILE _____</p> <p align="center">_____ <NAME> SURVEYOR GENERAL</p>	<p align="center">PLAN</p> <p>I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF _____ AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____.</p> <p align="right">_____ LAND REGISTRAR</p>										
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<table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>SURVEYOR'S CERTIFICATE</p> <p>I CERTIFY THAT:</p> <p>1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.</p> <p>2. THE SURVEY WAS COMPLETED ON THE _____ DAY OF _____, 20____.</p> <p align="right">_____ DATE</p> </td> <td style="width: 50%; vertical-align: top;"> <p>THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE DEPOSITED WITH THE MINISTER OF NATURAL RESOURCES AND REGISTERED IN THE PROPER LAND REGISTRY OFFICE.</p> <p>DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.</p> <p align="right">_____ CHIEF SURVEYOR MINISTRY OF TRANSPORTATION</p> </td> </tr> </table>		<p>SURVEYOR'S CERTIFICATE</p> <p>I CERTIFY THAT:</p> <p>1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.</p> <p>2. THE SURVEY WAS COMPLETED ON THE _____ DAY OF _____, 20____.</p> <p align="right">_____ DATE</p>	<p>THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE DEPOSITED WITH THE MINISTER OF NATURAL RESOURCES AND REGISTERED IN THE PROPER LAND REGISTRY OFFICE.</p> <p>DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.</p> <p align="right">_____ CHIEF SURVEYOR MINISTRY OF TRANSPORTATION</p>								
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<p align="center">< MINISTRY OF TRANSPORTATION OR C. OF A. HOLDER ></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; text-align: center;"> HWY 17 </td> <td style="width: 40%; text-align: center;"> MTO USE ONLY W.O. 2003-6-7011 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS </td> <td style="width: 30%; text-align: center;"> AMENDED CROWN LAND PLAN TYPE 'F' P-2190-78 </td> </tr> <tr> <td style="text-align: center;"> INDEXED UNDER TOWNSHIP OF LANGTON SUPERVISOR </td> <td style="text-align: center;"> < NAME > </td> <td style="text-align: center;"> < TITLE > </td> </tr> </table>		HWY 17	MTO USE ONLY W.O. 2003-6-7011 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS	AMENDED CROWN LAND PLAN TYPE 'F' P-2190-78	INDEXED UNDER TOWNSHIP OF LANGTON SUPERVISOR	< NAME >	< TITLE >				
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INDEXED UNDER TOWNSHIP OF LANGTON SUPERVISOR	< NAME >	< TITLE >									
<p align="center"><MTO REGION></p>											

NOTE:
THE PURPOSE OF THIS PLAN IS TO SHOW THE CORRECT POSITION OF THE CPR RIGHT-OF-WAY AND TO AMEND CENTRELINE DISTANCES SHOWN ON PLAN 1592837 (P-2190-78) WHICH WERE FOUND TO BE IN ERROR.

4.3 Crown Land Abandonment Plan – Type “G”

The purpose of this type of plan is to illustrate the abandonment of Crown land under the jurisdiction and control of the Minister of Transportation to the Ministry of Natural Resources.

The actual abandonment is effected by a writing called a Notice of Abandonment and the plan merely illustrates this document.

4.3.1 Definitions

Abandonment – the relinquishment of an interest, claim or thing. To give up to another's control.

Public Lands – unpatented lands in the Province which are administered by the Ministry of Natural Resources.

Crown Lands – for the purpose of the *Public Transportation and Highway Improvement Act*, this is now interpreted as meaning all unpatented lands under the jurisdiction and control of the Ministry of Natural Resources.

Laid Down – prior to 1957 when the Department of Highways wished to acquire Crown lands, a copy of the plan was sent to the Department of Lands and Forests who in turn recorded this information on the Patents Plan, and in appropriate files. This procedure was referred to "as being laid down in the Department of Lands and Forests."

Mining Rights – means ores, mines and minerals on or under any land where they are or have been dealt with separately from the surface rights.

Surface Rights – means every right in land other than the mining rights.

4.3.2 Statutory Authority

Subsection 5(2) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, authorizes the Minister of Transportation, with the approval of the District Manager on behalf of the Minister of Natural Resources, to abandon jurisdiction and control of Crown land no longer required by this ministry, to the Ministry of Natural Resources.

5. (2) Where the jurisdiction and control of Crown lands is no longer required by the Ministry, the Minister may, with the approval of the Minister of Natural Resources, by a writing deposited with the Minister of Natural Resources and registered in the proper land registry office, declare that the jurisdiction and control of the land is no longer required and thereupon such land is under the jurisdiction and control of the Ministry of Natural Resources.

4.3.3 Effect

When the Plan and/or Notice of Abandonment have been approved and deposited with the Minister of Natural Resources and individually registered in the proper Land Registry Office (plan before notice), the jurisdiction and control of the lands involved are released from the Ministry of Transportation and placed under the Ministry of Natural Resources.

4.3.4 Authorized Signatories

The *Public Transportation and Highway Improvement Act* requires that the Plan and Notice of Abandonment be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry.

4.3.5 Plan Combination

This plan shall not be combined with any other type of plan. It is acceptable to show both lands to be abandoned and lands to be retained with two separate schedules and operating words. The subsequent Notice of Abandonment will omit any reference to the retained lands.

4.3.6 Plan Requirements

- (a) The Crown Land Abandonment Plan and/or the Notice of Abandonment is to be registered in the same Registry Division as was the underlying Crown Land Plan.
- (b) If the underlying Crown Land Plan was not registered, the Crown Land Abandonment Plan and/or the Notice must be registered under the Land Titles Division (if available).
- (c) If the portion to be abandoned is a road or has previously been designated as a highway, it must be closed before the abandonment is processed. The road closing particulars should be shown on the Abandonment Plan and recited in a 'Whereas' clause in the Notice (OIC number and date, registration number and date, LRO). It is also acceptable to register the Abandonment Plan prior to the closing and use the registered plan to illustrate the closing OIC. The registration particulars for both the plan and the OIC would then be recited in the subsequent Notice.
- (d) In unsurveyed territory show the latitude and longitude of the site in the title block to the nearest minute.
- (e) On all Crown Land plans located within an incorporated municipality, include the Geographic Township in the title portion of the title block as well as in the schedule.

4.3.7 Operating Words

When the Crown land being abandoned was previously shown on a Crown Land Plan which was laid down in the Ministry of Natural Resources but was not registered in a Land Registry Office, the following schedule shall be used:

SCHEDULE 1

THE PART(S) ENUMERATED HEREUNDER RELATE(S) TO CROWN LAND, SHOWN ON PLAN P- _____, DEPOSITED WITH THE MINISTRY OF NATURAL RESOURCES ON _____, PURSUANT TO THE PUBLIC WORKS ACT, OVER WHICH THE MINISTER OF TRANSPORTATION ACQUIRED JURISDICTION AND CONTROL. JURISDICTION AND CONTROL OVER THE SAID PART(S) IS ABANDONED BY THE MINISTER OF TRANSPORTATION.

SCHEDULE 2

THE PART(S) ENUMERATED HEREUNDER RELATE(S) TO CROWN LAND, SHOWN ON PLAN P- _____, DEPOSITED WITH THE MINISTRY OF NATURAL RESOURCES ON _____, PURSUANT TO THE PUBLIC WORKS ACT, OVER WHICH THE MINISTER OF TRANSPORTATION ACQUIRED JURISDICTION AND CONTROL. JURISDICTION AND CONTROL OVER THE SAID PART(S) IS RETAINED BY THE MINISTER OF TRANSPORTATION.

NOTE: Prior to 1957 there was no provision in the *Public Transportation and Highway Improvement Act* for the ministry to acquire Crown land. Therefore, the ministry acquired Crown land by using the *Public Works Act* which did not require a plan to be registered.

When dealing with the abandonment of Crown land that was acquired prior to 1957, this ministry deems it advisable to have recorded in the registry system, not only what is being abandoned, but also the Crown land that remains under the jurisdiction and control of the ministry.

When abandoning Crown land that was acquired and registered after 1957, there is no need to include a schedule showing the Crown land retained by the ministry since the Land Registry Office already has a record of the ministry's control.

When abandoning jurisdiction and control of Crown land which was acquired by a plan filed in the Ministry of Natural Resources and registered in a Land Registry Office, the following shall be used:

THE PART(S) ENUMERATED HEREUNDER RELATE(S) TO CROWN LAND SHOWN ON PLAN P- _____, REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____, AS NO. _____ PURSUANT TO THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT, OVER WHICH THE MINISTER OF TRANSPORTATION ACQUIRED JURISDICTION

AND CONTROL. JURISDICTION AND CONTROL OVER THE SAID PART(S)
IS ABANDONED BY THE MINISTER OF TRANSPORTATION.

4.3.8 *Approval*

All requests for disposal of any interest in Crown land must be dealt with by the Property Section. Therefore, any letters, requests, etc., for the disposition of Crown land must be referred to the Regional Property Section for approval.

4.3.9 *Supplemental Material*

The direct disposal of Crown land by the ministry to private owners is not permitted. If this is necessary, the ministry will abandon its jurisdiction and control of Crown land to MNR. The private owner will then make application to MNR for a Crown land patent. The Ministry of Natural Resources may request that MTO illustrate this transaction on a "Crown Land Reference Plan".

Crown land which has been designated as a highway by the MTO may be transferred to a municipality as a highway.

4.3.10 *Special Consideration*

When dealing with old Crown Land Plans, it is often difficult to determine if the plan was filed to cover both surface and mining rights. Before any action is taken by the ministry, this should be verified through the Patents Office of the Ministry of Natural Resources because it is possible that the mining rights have been patented or leased, and this would change the wording to be used in the Notice of Abandonment.

The Public Transportation and Highway Improvement Act

CROWN LAND ABANDONMENT

P-2544-131A

To the Land Registrar for the
Land Titles Division of Thunder Bay:

IN THE MATTER OF part of the Unsurveyed Territory (South of the Township of
Kilkenny), in the District of Thunder Bay, and

IN THE MATTER OF Crown Land Plan P-2544-20, laid down in the Ministry of
Natural Resources at Toronto, on April 15, 1941.

WHEREAS the Ministry of Transportation acquired jurisdiction and control over certain of the ungranted public lands in the said Unsurveyed Territory (South of the Township of Kilkenny) by virtue of the above-mentioned Plan P-2544-20;

AND WHEREAS that portion of the above-mentioned lands, shown as PART 1 on Crown Land Abandonment Plan P-2544-131, deposited with the Ministry of Natural Resources at Toronto on September 12, 1988, in File 121019 and registered in the Land Registry Office for the Land Titles Division of Thunder Bay on September 28, 1988 as number 234992-P (Misc. 480), is no longer required for the use or purpose of the Ministry of Transportation;

NOW THEREFORE the Minister of Transportation in accordance with the provisions of subsection 5(2) of the *Public Transportation and Highway Improvement Act* as amended hereby declares that jurisdiction and control over the Crown land shown as PART 1 on the aforementioned Plan P-2544-131 is no longer required.

Application is hereby made to have this declaration registered.

Ontario Land Surveyor

Dated at St. Catharines, this ____ day of ____, 20__.

The Chief Surveyor of the
Ministry of Transportation

Approved, this ____ day of ____, 20__.

District Manager

for and on behalf of the
Minister of Natural Resources

The Public Transportation and Highway Improvement Act

CROWN LAND ABANDONMENT

P-3111-35B

To the Land Registrar for the
Land Titles Division of Thunder Bay:

IN THE MATTER OF part of the Southwest quarter of Section
11, Concession 7, of the Geographic
Township of Tavish, in the District of
Thunder Bay, and

IN THE MATTER OF Assumption Plan P-3111-3 deposited
in the Ministry of Natural Resources at
Toronto on January 8, 1963, in file 51543
and registered in the Land Registry
Office for the Land Titles Division of
Thunder Bay as instrument no. 5329.

WHEREAS the Ministry of Transportation acquired jurisdiction and control over certain of
the ungranted public lands in the said Geographic Township of Tavish by virtue of the
above-mentioned Plan P-3111-3;

AND WHEREAS that portion of the above-mentioned lands, shown as PART 3 on
Reference Plan 55R-12345 (MTO Plan P-3111-35) was closed by Order in Council number 941/89
dated April 14, 1989, and is no longer required for the use or purpose of the Ministry of
Transportation;

NOW THEREFORE the Minister of Transportation in accordance with the provisions of
subsection 5(2) of the *Public Transportation and Highway Improvement Act* as amended
hereby declares that jurisdiction and control over the Crown land shown as PART 3 on the
aforementioned Reference Plan 55R-12345 (MTO Plan P-3444-25) is no longer required.

Application is hereby made to have this declaration registered.

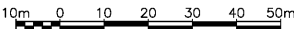
Ontario Land Surveyor

Dated at St. Catharines, this _____ day of _____, 20 ____ .

The Chief Surveyor of the
Ministry of Transportation

Approved, this _____ day of _____ 20 ____ .

District Manager
_____ District
for and on behalf of the
Minister of Natural Resources

<p align="center">CROWN LAND CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN WAS DEPOSITED IN THE OFFICE OF THE MINISTRY OF NATURAL RESOURCES AT PETERBOROUGH THIS ____ DAY OF _____, 20____.</p> <p>FILE _____</p> <p align="right">_____ SURVEYOR GENERAL</p>		<p>PLAN _____</p> <p>I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF _____ AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____ AND ENTERED IN THE PARCEL REGISTER FOR PARCEL _____ SECTION _____.</p> <p align="right">_____ LAND REGISTRAR</p>											
<p align="center">METRIC</p> <p>DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>		<p align="center">SCHEDULE</p> <p>THE PART ENUMERATED HEREUNDER RELATES TO CROWN LANDS, SHOWN ON PLAN P-1790-24, DEPOSITED WITH THE MINISTRY OF NATURAL RESOURCES ON _____, 20____, PURSUANT TO THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT, OVER WHICH THE MINISTER OF TRANSPORTATION ACQUIRED JURISDICTION AND CONTROL. JURISDICTION AND CONTROL OVER THE SAID PART IS ABANDONED BY THE MINISTER OF TRANSPORTATION.</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <th style="width: 10%;">PART</th> <th style="width: 10%;">LOT</th> <th style="width: 40%;">CONCESSION</th> <th style="width: 20%;">PARCEL</th> <th style="width: 20%;">AREA</th> </tr> <tr> <td>1</td> <td>19</td> <td>3</td> <td>7-11</td> <td>1473.2m²</td> </tr> </table>		PART	LOT	CONCESSION	PARCEL	AREA	1	19	3	7-11	1473.2m ²
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<p>LEGEND</p> <p>△ HCM DENOTES HORIZONTAL CONTROL MONUMENT □ DENOTES SET MONUMENT ■ DENOTES FOUND MONUMENT MTO DENOTES MINISTRY OF TRANSPORTATION OF ONTARIO MEAS DENOTES MEASURED</p> <p>NOTES</p> <p>DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.998764.</p> <p>BEARINGS HEREON ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL SURVEY MONUMENTS 20010101 (N 123456.789 E 246810.731) AND 20100202 (N 987654.321 E 108642.789) AND BASED ON THE MTM COORDINATE SYSTEM ZONE 10, AND ARE REFERRED TO THE CENTRAL MERIDIAN 79°30' WEST LONGITUDE. (NAD83(ORIG) ADJUSTMENT)</p>													
<p>CROWN LAND ABANDONMENT PLAN</p> <p>IN THE GEOGRAPHIC TOWNSHIP OF</p> <p>VINE</p> <p>DISTRICT OF WOLFRAM</p> <p>IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT</p> <p>SCALE 1 : 1000</p> 													
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<p>< MINISTRY OF TRANSPORTATION OR C. OF A. NAME ></p>													
<p>MTO USE ONLY</p>													
<p>HWY 11</p>	<p>W.P.1867-12-40 P.R. 17/6219.</p>	<p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p>											
<p>INDEXED UNDER TOWNSHIP OF VINE</p>	<p><NAME></p>	<p><TITLE></p>	<p>CROWN LAND ABANDONMENT PLAN TYPE 'G'</p> <p>P-1790-29</p>										
<p>SUPERVISOR</p>		<p>GEOMATICS PLAN TECHNICIAN</p>											
<p><MTO REGION></p>		<p>P-1790-29.DWG</p>											

4.4 Plan of Canada Lands – Type “H”

The purpose of a plan type "H" is to illustrate those Canada Lands whose administration and control is to be transferred by the Governor General in Council (the Crown in right of Canada) to the Crown in right of Ontario as represented by the Minister of Transportation.

NOTE: Prior to surveying for a plan type “H”, Specific Survey Instructions must be obtained from the Surveyor General of Canada, as well as permissions from First Nations or Parks Canada as appropriate. See 4.4.9 for details.

4.4.1 Definitions

"**Canada Lands**" – the *Canada Lands Surveys Act* S. 24 (1) defines Canada Lands as

- "(a) any lands belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose, that are situated in Yukon, the Northwest Territories, Nunavut or in any National Park of Canada and any lands that are
 - (i) surrendered lands or a reserve as defined in the *Indian Act*,
 - [(ii) to (vi)... items not applicable to Ontario], and
- (b) any lands under water belonging to Her Majesty in right of Canada or in respect of any rights in which the Government of Canada has power to dispose."

The *Canada National Parks Act* defines "**public lands**" as "lands, including submerged lands, that belong to Her Majesty in right of Canada or that the Government of Canada has the power to dispose of, whether or not such disposal is subject to the terms of any agreement between the Government of Canada and the government of a province".

The *Federal Real Property and Federal Immovables Act* defines "**federal real property**" as "any real property belonging to Her Majesty, and includes any real property of which Her Majesty has the power to dispose"; and "federal immovable" as "an immovable belonging to Her Majesty, and includes an immovable of which Her Majesty has the power to dispose".

"**Crown grant**" according to the *Federal Real Property and Federal Immovables Act*, means any of the instruments or acts referred to in section 5, a plan referred to in section 7, a notification within the meaning of the *Territorial Lands Act* or any other instrument or act by which federal real property may be granted or federal immovables may be conceded;

"**interest**" according to the *Federal Real Property and Federal Immovables Act*, means in relation to land in any province other than Quebec, any estate, right, title or interest in or to the land, and includes an easement, a servitude and a lease, and in relation to land outside Canada, any estate, right, title or interest that is similar to that referred to in paragraph (a);

"**licence**" according to the *Federal Real Property and Federal Immovables Act*, means any right to use or occupy real property or an immovable, other than (a) a real right within the meaning of the

civil law of the Province of Quebec and the rights of a lessee under a lease of an immovable, and (b) an interest in land;

"real property" according to the *Federal Real Property and Federal Immovables Act*, means land in any province other than Quebec, and land outside Canada, including mines and minerals, and buildings, structures, improvements and other fixtures on, above or below the surface of the land, and includes an interest therein.

"Band" – according to the *Indian Act*, means a body of Indians:

- (a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after September 4, 1951,
- (b) for whose use and benefit in common, moneys are held by Her Majesty, or
- (c) declared by the Governor in Council to be a band for the purposes of this Act.

"Reserve" – according to the *Indian Act*, means (a) a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band, and (b) except in subsection 18(2), sections 20 to 25, 28, 36 to 38, 42, 44, 46, 48 to 51, 58 to 60 and the regulations made under any of those provisions, includes designated lands.

"Designated Lands" – according to the *Indian Act*, means a tract of land or any interest therein the legal title to which remains vested in Her Majesty and in which the band for whose use and benefit it was set apart as a reserve has, otherwise than absolutely, released or surrendered its rights or interests, whether before or after the coming into force of this definition.

"Surrendered Lands" - according to the *Indian Act*, means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the Indian band for whose benefit it was set apart. The expression "band" with reference to a reserve or surrendered lands means the band for whose use and benefit the reserve or the surrendered lands were set apart.

"Possession of Land" – according to the *Indian Act*, means an Indian is lawfully in possession of land in a reserve when the land has been allotted to him by the council of the band and the Minister has issued a "Certificate of Possession" which describes the land he has a right to possess (prior to 1951 this was called a Location Ticket). The Minister may issue as a temporary measure a Certificate of Occupation that prescribes conditions of use to be fulfilled before a Certificate of Possession will be issued. The Certificate of Occupation is valid for up to two years and is renewable for a further two year period.

4.4.2 Administration of Canada Lands Within Provinces

"Parks Canada Lands" – are administered by Parks Canada Agency, under the direction of the Minister of the Environment in accordance with the *Federal Real Property and Federal Immovables Act*. Parks Canada Lands consist of:

- (a) National Parks of Canada (including National Historic Parks) - these comprise lands vested in the Crown that have been set apart and established in accordance with the *Canada National Parks Act* and are administered under that Act.

- (b) National Historic Sites and Monuments - these comprise sites, buildings or other places of National Historic interest set apart or commemorated, on the recommendation of the Historic Sites and Monuments Board of Canada, by the Minister. If the associated lands are vested in the Crown, they are administered under the *Federal Real Property and Federal Immovables Act*. These sites include the Rideau Canal National Historic Site of Canada, the Trent-Severn Waterway National Historic Site of Canada. Many of these lands were at one time Ordnance and/or Admiralty lands.
- (c) National Marine Conservation Areas - are set apart and established in accordance with the *Canada National Marine Conservation Areas Act*. These mainly marine areas are managed for sustainable use and may contain small zones of high protection. The seabed, the water above it and any species which occur there are included, as are some wetlands, estuaries, islands and other coastal lands. In Ontario, these 'lands' are Fathom Five National Marine Park of Canada and the proposed Lake Superior National Marine Conservation Area of Canada.

"Indian Lands" are administered by Indian and Northern Affairs Canada (INAC) under the Lands Management Program of the Lands & Trusts Sector in concert with the band councils. Land transactions for each reserve or surrendered lands are maintained in registers by INAC as legislated. Additionally, any lands being added to, or surrendered from, a reserve must comply with the *Federal Real Property and Federal Immovables Act*.

Land management powers can be delegated from INAC to First Nations. Sections 53 and 60 of the *Indian Act* allow delegation of certain transactions. First Nations with delegated authority act on behalf of the Minister. They are subject to all legislation, regulations and departmental policies for management of reserves and surrendered and designated lands

"First Nations Land Management Act (FNLMA)" allows bands to opt out of the land provisions of the *Indian Act*. This allows the band to manage its own lands without further need for ministerial or departmental approval. A band under the FNLMA can "exercise the powers, rights and privileges of an owner in relation to that land; grant interests in and licenses in relation to that land;" (s. 18). S. 35 (lands taken for public purposes) of the *Indian Act* is no longer applicable to these lands. Alienation of land is covered in sections 26 to 33 of the FNLMA.

4.4.3 Statutory Authority

The authority to transfer administration and control from the federal Crown to the provincial Crown comes from the Federal Real Property Regulations SOR/92-502, under the *Federal Real Property and Federal Immovables Act*, section 5:

- 5. (1) A Minister may transfer to Her Majesty in right of a province, by instrument satisfactory to the Minister of Justice, the administration and control of the entire or any lesser interest of Her Majesty in any federal real property, either in perpetuity or for any lesser term.

Surveys and plans dealing with Canada lands must be made in accordance with the *Canada Lands Surveys Act* and under the instructions of the Surveyor General of Canada. By agreement, when

Canada lands are to be transferred to the Province, the survey, report and plan will comply with the *Canada Lands Surveys Act* (Canada), *General Instructions for the Survey of Canada Lands – e-Edition*, *Canada Lands Surveyors Act* (Canada), *ACLS Practice Manual* and other applicable federal legislation and/or regulations. The *Surveys Act* (Ontario), *Surveyors Act* (Ontario), *Registry Act* (Ontario) or the *Land Titles Act* (Ontario) and the regulations under these acts will also apply. Any conflicts that may arise between the legislation will be dealt with in the Specific Survey Instructions.

4.4.4 Effect

The plan, when approved or confirmed by the Surveyor General of Canada (or designee), is an "Official Plan" under the *Canada Lands Surveys Act*.

The Governor General of Canada will issue a Privy Council Order to transfer the "Administration and Control" of the lands to Her Majesty in right of the Province of Ontario. The Lieutenant Governor in Council will issue an Order in Council accepting the lands for the Province, and to place the "Administration and Control" under the Minister of Transportation.

4.4.5 Authorized Signatories

The plan must be signed by a Canada Lands Surveyor in accordance with the *Canada Lands Surveyors Act*. In accordance with s.38 of the regulation under the Act, the surveyor shall certify that the plan is correct.

NOTE: Before the plan can be recorded in the Canada Lands Surveys Records, or filed in a Land Registry Office, it must be satisfactory to the minister of the administering federal department, validated by that Minister (or designee) signing of the plan. Only then will the plan be approved or confirmed by the Surveyor General of Canada (or designee).

4.4.6 Plan Combination

A Plan of Canada Lands shall not be combined with any other type of plan.

4.4.7 Plan Requirements

The plan shall be prepared in accordance with any special instructions that were issued by the Surveyor General of Canada and the following:

- (a) Prepare plan in metric units, except at Six Nations where only imperial units are used.
- (b) When quoting the number of a plan previously recorded in the Canada Lands Surveys Record, always use the suffix "C.L.S.R." even though the original plan may have a different suffix or none at all.
- (c) The title block shall show the full name of the Canada Lands that are affected.
- (d) The plan shall clearly show all the evidence that was used to establish all lines, including the

proposed highway boundaries. If necessary, this may be shown on a separate small or large scale key plan.

- (e) Each area of land being dealt with shall be designated by a numbered PART beginning at one.
- (f) The area for each PART as well as the total area of all the PARTS being acquired shall be shown in the schedule.
- (g) In order to conform with section 30 of the *Canada Lands Surveys Act*, the Official Plan will be filed in the appropriate Land Registry Office under the "Canada Lands Index". The Official Plan shall show a "Certificate of Recording" in accordance with Form 3, Regulation 992, R.R.O. 1990 under the *Registry Act*.

4.4.8 Approval

When the plan has been completed, checked, and signed by a Canada Lands Surveyor, the MTO Regional Head of the Geomatics Section shall forward seven white prints of the draft plan to the Surveyor General Branch (SGB), Ontario Region, Department of Natural Resources Canada.

SGB will return any comments to the ministry's Regional Head of Geomatics. After any required alterations have been made, the original documents (1 original of each plan, a survey report on archival quality paper & any field notes on appropriate medium) plus a final digital file and seven white prints of the plan will be sent to the Surveyor General of Canada via the SGB office in Toronto for final approval, signatures and entry into the Canada Lands Surveys Records.

Once SGB approvals are granted and added to the plan, the plan can be filed in the appropriate Ontario Land Registry Office, and entered in the Canada Lands Index as in 4.4.7 (g).

A mylar duplicate of the registered plan showing the particulars of Land Registry Office recording will be returned to the Surveyor General of Canada via the SGB office in Toronto, for office records.

4.4.9 Supplemental Material

When a land survey is required through Canada Lands, the Canada Lands Surveyor shall apply to the Surveyor General of Canada for Specific Survey Instructions (SSI). These SSI can be requested online at <http://clss.nrcan.gc.ca> or through the:

Manager, Ontario Client Liaison Unit,
Surveyor General Branch,
Natural Resources Canada,
606-55 St. Clair Avenue East,
Toronto, ON M4T 1M2

The application shall be accompanied by a sketch showing the approximate location of the route to be surveyed, and other required documentation (see *General Instructions for the Survey of Canada Lands – e-Edition*, specifically Ch. C1, s.17).

The issuance of SSI shall be considered Canada's authority to survey, however, permission to enter a reserve or park must also be obtained from the First Nation or Parks Canada before commencing the survey.

Note that pertinent plans, field notes and other (current) documentation can be accessed online at: <http://clss.nrcan.gc.ca/> .

4.4.10 *Updating Monumentation*

A right-of-way inspection may be required to check the monumentation along the highway through Canada Lands.

If the monumentation is found to agree with the existing plan, the Regional Head of Geomatics shall write to the Surveyor General of Canada through the Manager, Ontario Client Liaison Unit in Toronto, informing him/her that an inspection survey has been completed and that the existing plan reflects the present conditions.

Where a few monuments are missing and they can be replaced by the same type of monument as originally planted, then a copy of the field notes and survey report should accompany the letter to the Surveyor General of Canada. The field notes and report may be recorded in the C.L.S.R.

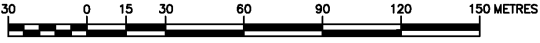
4.4.11 *Disposal*

Most Privy Council orders transferring federal lands or Canada Lands to the Province contain a provision stipulating that the lands are only to be used for public roads and in the event that they are no longer required by the Province for road purposes they must be returned to Her Majesty in Right of Canada (a reversionary clause).

The lands to be 'disposed' of should be illustrated on a plan prepared under the Instructions of the Surveyor General of Canada, normally requiring a plan to be prepared under the *Canada Lands Surveys Act*.

4.4.12 *Special Conditions – Patented Lands of Crown*

When the ministry wishes to acquire patented lands which are under the control of Crown Canada but are not considered to fall within the definition of Canada Lands, a standard Reference Plan - type "U" will be prepared to illustrate the acquisition by Privy Council Order.

CANADA LANDS SURVEYS RECORDS DATE _____ ADDITIONAL FIELD NOTES FOR THIS PLAN ARE RECORDED UNDER No. _____		CERTIFICATE OF RECORDING I CERTIFY THAT THE WITHIN PLAN WAS RECEIVED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF MUSKOKA (No 35) AT _____ O'CLOCK ON THE _____ DAY OF _____, 2008 AS NUMBER _____ AND IS RECORDED IN VOLUME _____ OF THE CANADA LANDS INDEX AT PAGE _____ <div style="text-align: right;">_____</div> LAND REGISTRAR						
METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.		NOTE DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.9998797						
SCHEDULE PARTS ENUMERATED HEREUNDER REFER TO LANDS TO BE ACQUIRED BY THE MINISTER OF TRANSPORTATION								
LOT	AREA	PIN	NAME	LOCATION				
18-1	14.6 m ²	PART OF PIN 48007-0148(LT)	HER MAJESTY THE QUEEN IN RIGHT OF CANADA IN TRUST FOR THE BENEFIT OF THE GIBSON INDIAN BAND NOW WAHTA MOHAWK TERRITORY	PART OF LOT 18, CONCESSION 7				
19-1	245.8 m ²			PART OF LOT 19, CONCESSION 7				
19-2	339.7 m ²							
19-3	3,348.3 Ha.							
NOTE: BEARINGS HEREON ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL SURVEY MONUMENTS 00919710488 (N 4982781.362 E 282724.773) AND 00919710502 (N 4987046.879 E 283004.548) AND BASED ON THE ONTARIO COORDINATE SYSTEM ZONE 10, AND ARE REFERRED TO THE CENTRAL MERIDIAN 79°30' WEST LONGITUDE (NAD 83 ADJUSTMENT)								
PLAN AND FIELD NOTES OF CANADA LANDS REQUIRED BY THE MINISTRY OF TRANSPORTATION THROUGH WAHTA MOHAWK TERRITORY LOT 18-1, BEING PART OF LOT 18, CONCESSION 7, LOT 19-1, 19-2, AND 19-3, BEING PART OF LOT 19, CONCESSION 7 IN THE GEOGRAPHIC TOWNSHIP OF GIBSON NOW IN THE TOWNSHIP OF GEORGIAN BAY DISTRICT MUNICIPALITY OF MUSKOKA PROVINCE OF ONTARIO <div style="text-align: center;">  SCALE 1 : 1500 </div> THIS SURVEY WAS EXECUTED BETWEEN SEPTEMBER 28, 2008 AND NOVEMBER 23rd, 2008 BY B. PLUMB, C.L.S., O.L.S. <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> CERTIFIED CORRECT DECEMBER 1st, 2008 </div> <div style="text-align: center;"> B. PLUMB, C.L.S., O.L.S. PORT CARLING, ONTARIO </div> </div> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 50%; padding: 5px;"> Department of Indian Affairs and Northern Development Section 29, Canada Lands Surveys Act This Plan is Satisfactory </td> <td style="width: 50%; padding: 5px;"> Department of Natural Resources Re: Section 29, Canada Lands Surveys Act Confirmed </td> </tr> <tr> <td style="padding: 5px;"> <div style="display: flex; justify-content: space-between;"> <div> < NAME > _____ Date _____ Manager, Lands and Trust Services Ontario Region On behalf of the Minister </div> <div> < NAME > _____ Date _____ Manager, Surveys and Imaging Land Operations and Registration </div> </div> </td> <td style="padding: 5px;"> <div style="display: flex; justify-content: space-between;"> <div> < NAME > _____ Date _____ Deputy Surveyor General, East Surveyor General Branch </div> </div> </td> </tr> </table>					Department of Indian Affairs and Northern Development Section 29, Canada Lands Surveys Act This Plan is Satisfactory	Department of Natural Resources Re: Section 29, Canada Lands Surveys Act Confirmed	<div style="display: flex; justify-content: space-between;"> <div> < NAME > _____ Date _____ Manager, Lands and Trust Services Ontario Region On behalf of the Minister </div> <div> < NAME > _____ Date _____ Manager, Surveys and Imaging Land Operations and Registration </div> </div>	<div style="display: flex; justify-content: space-between;"> <div> < NAME > _____ Date _____ Deputy Surveyor General, East Surveyor General Branch </div> </div>
Department of Indian Affairs and Northern Development Section 29, Canada Lands Surveys Act This Plan is Satisfactory	Department of Natural Resources Re: Section 29, Canada Lands Surveys Act Confirmed							
<div style="display: flex; justify-content: space-between;"> <div> < NAME > _____ Date _____ Manager, Lands and Trust Services Ontario Region On behalf of the Minister </div> <div> < NAME > _____ Date _____ Manager, Surveys and Imaging Land Operations and Registration </div> </div>	<div style="display: flex; justify-content: space-between;"> <div> < NAME > _____ Date _____ Deputy Surveyor General, East Surveyor General Branch </div> </div>							
< C. OF A. HOLDER >								
MTO USE ONLY								
HWY 69	W.P. 312-96-00-SB P.R. 312-96-00-PR-01 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS	CANADA LANDS PLAN TYPE 'H' P-3104-70						
INDEXED UNDER TOWNSHIP OF GIBSON	< NAME > _____	< TITLE > _____						
SUPERVISOR	GEOMATICS PLAN TECHNICIAN							

CURSORY REVIEW:

FILE: SM8206-06206 PROJECT 2004-17-136 NRC CAD FILE 2004140136P1 < MTO REGION > P-3104-70.DWG

CANADA LANDS SURVEYS RECORDS

BP CAD FILE GK22845P.DWG

5 Assumptions

5.1 Preliminary Assumption Plan – Type "I"

This plan is used to acquire existing public highways prior to a survey.

5.1.1 Definitions

Highway – A road open to the public as of right for the purposes of passing and re-passing. A highway may be created by dedication, acceptance, long standing use, statute, plan of subdivision, or by prescription. Roads can also be expressly reserved or excepted in a Crown Patent.

"Highway" is defined in the *Public Transportation and Highway Improvement Act* as including "a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle or any other structure incidental thereto, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;"

The above is a broader definition of "Highway" than that set out in section 26 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25.

26. The following are highways unless they have been closed:

1. All highways that existed on December 31, 2002.
2. All highways established by by-law of a municipality on or after January 1, 2003.
3. All highways transferred to a municipality under the *Public Transportation and Highway Improvement Act*.
4. All road allowances made by the Crown surveyors that are located in municipalities.
5. All road allowances, highways, streets and lanes shown on a registered plan of subdivision.

Existing Highway – as referred to in the *Public Transportation and Highway Improvement Act* means a common and public highway which exists whether in law or in fact. A common and public highway which exists in fact is one which has a physical existence on the ground and is in use by the public. A common and public highway which exists in law but not in fact can include an unopened road allowance or an unopened street on a registered plan of a subdivision. In general, existing common and public highways are those highways which are defined as highways by the *Municipal Act*.

Assume – To undertake obligations, liabilities, rights or interests. Following an assumption of a highway, the ministry is responsible and liable for highway maintenance and repair.

Dedication – An act on the part of the owner of land in which the owner donates land to the public for their use either as a highway or a public park. The intent of dedication must be clear and unequivocal. The most common form of dedication is that of streets and lanes on a registered plan of subdivision.

Acceptance – The act of assenting to an offer. It may be formal, as in the case of a by-law passed by a Municipal Council or by filing an Assumption Plan or a Notice of Assumption by the Ministry of Transportation under the *Public Transportation and Highway Improvement Act*. Subject to the *Municipal Act*, acceptance may be inferred by a road authority's continual spending of public funds on the construction, maintenance and repair of the highway in question.

Prescription – The vesting of a right by reason of the lapse of time. A person acquiring the use of land, adverse to that of the legal owner, is said to have acquired his right by prescription.

5.1.2 Statutory Authority

Subsection 8(2) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, empowers the Minister to acquire an existing highway by using a Preliminary Assumption Plan.

8. (2) The Minister, before registering an "Assumption Plan", may register in the proper land registry office, a preliminary plan of the highway to be known as and marked "Preliminary Assumption Plan/Plan préliminaire d'appropriation", and such Preliminary Assumption Plan when registered has the same force and effect as an Assumption Plan registered under subsection (1), but an Assumption Plan of the highway or a Notice of Assumption referring to a plan registered in the proper land registry office shall thereafter be registered under subsection (1).

5.1.3 Effect

Upon registration of the plan in the proper Land Registry Office, the highway vests in the Crown and is under the jurisdiction and control of the ministry. The Minister shall give notice in writing of such vesting to any municipality concerned.

NOTE: Before the enactment of the *Provincial Highway Act* in 1917, all public highways in incorporated municipalities were vested in the municipality. Therefore, before the Crown could re-vest a particular highway in itself, it had to take some action to remove the highway from municipal control. This was done by "assuming" the highway. To assume a highway means to take over control of it and upon its assumption, the soil and freehold previously vested in the municipal corporation becomes vested in the Crown. In areas that are without municipal organization, the soil and freehold is already vested in the Crown. In these cases, the ministry only requires jurisdiction and control over the road.

5.1.4 *Authorized Signatories*

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry.

5.1.5 *Plan Combination*

A Preliminary Assumption Plan shall not be combined with any other plan type.

5.1.6 *Plan Requirements*

- (a) the plan shall contain an accurate schedule of lots, concessions, plans etc. using the operating words “THE PART ENUMERATED HEREUNDER REFERS TO AN EXISTING HIGHWAY ACQUIRED BY THE MINISTER OF TRANSPORTATION”.
- (b) the scale of the plan is dependent on the scale of the base plan used: topographic maps, Forest Resources Inventory (F.R.I.) sheets Regional or County Maps. A scale bar should be shown in the title block and the ratio it represents;
- (c) the road being assumed must be clearly defined by PARTS;
- (d) roads previously acquired by the ministry shall be shown by short dashed lines of medium weight. The name or number of the road and the plan number, including the registration number and date shall be shown;
- (e) all other traveled roads shall be shown by short dashed lines of light weight;
- (f) to complete the plan, lots, concessions, railways, lakes, rivers, municipal divisions, etc. shall be labeled on the face of the plan;
- (g) bearings or distances shall not be shown on the plan;
- (h) a standard north point shall be shown on the plan;

5.1.7 *Types of Roads Which May be Assumed by the Minister*

- Road allowance which has not been closed;
- Roads established by Municipal By-law or by Authority of a Statute Labour Board or other statutory authority;

- traveled roads through unpatented Crown lands

(Note: Section 63 of the *Public Lands Act*, R.S.O. 1990, states, “ Any part of the public lands that is a beach and is used for travel by the public is not by reason only of such use a highway within the meaning of any Act.”)

- trespass or Forced Roads or roads which have been traveled by the public for at least 20 years, such as roads which have been built across privately owned lands and on which no action has been taken to transfer the title of the right-of-way to a road authority
- roads which have been built by this ministry through unorganized territory should not be assumed until they have attained the status of an existing public highway

NOTE: Before the ministry may acquire title to a highway by prescription there must be a dedication, either express or implied by the owner of the land over which the highway passes.

This may involve difficulties in proving that the owners did in fact dedicate the land for highway purposes, and thus may require extensive research to determine the history of the highway for a period of at least 30 years. As there is always the possibility of litigation, the legal branch should be consulted. The simplest method may be to compensate the owner and obtain title to the property. Common problems are centred around:

- Roads for which the right-of-way has been acquired by deed or transfer by the Department of Northern Development
- Reservations for roads mentioned in the original patent as a general exception or roads set aside or laid out by a Crown Surveyor
- Streets, roads and road widening dedications on a subdivision plan
- Roads for which the right-of-way has been acquired by expropriation, deed or transfer by another road authority

Bridge Structures

Caution should be exercised if a bridge on a road to be assumed is a swing or lift bridge over a Federal Government facility such as a canal. Generally, ministry policy is to stop the assumption on each side of the facility, then enter into an agreement with the Federal authorities for maintenance of the road surface. The same caution may apply to roads which extend over dams or other structures, an agreement with the operating authority may be required.

If the assumption will extend across a navigable river or body of water where jurisdiction is under the control of the Province, the ministry will acquire control over the road, the bridge, the land and land under water (Bed) to the width of the constructed right-of-way, such as: the width of the bridge or the width of the road allowance, if such allowance or road was defined by the previous road authority. Such width should be clarified when an Assumption Plan (replacing) is prepared and it must be noted that original township road allowances do not extend across navigable waters.

5.1.8 *Approval*

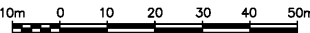
The Request for Assumption or Property Request in accordance with Ministry Directive PLNG-B-009 is the authority for the preparation of the plan. A print of the plan must be sent to the Regional Planning and Design Section for approval before final processing.

If a "small scale plan" is prepared, a preliminary field inspection and Land Registry Office search should be made to see that the position of the road shown on the plan is correct, noting the following:

- length of assumption in kilometres
- the beginning and end of the assumption
- railway, river, other road crossings; and
- lots, concessions or subdivision units through which the road passes.

5.1.9 *Supplemental Information*

- (a) When it is required to designate the Highway as the King's or a Secondary Highway, the assumption plan P - number, registration number and the date of registration is included in the description of the highway which is attached to the recommendation for an Order in Council.
- (b) Preliminary Assumption Plan must be replaced by an Assumption Plan (replacing) or Notice of Assumption at a later date (see Assumption Plan - type "L").
- (c) The Minister must give formal notice of the assumption to any municipality concerned. The signing authority for any such documents has been delegated to the Regional Senior Surveyor by the Minister.
- (d) When it appears that the road being assumed is partly through Crown lands, a Crown Lands Certificate is added to the title block and the plan is filed with the Ministry of Natural Resources prior to registration.
- (e) The ministry may not assume roads which extend into railway station grounds established under a Federal charter.

<p style="text-align: center;">METRIC</p> <p style="text-align: center;">DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>		<p style="text-align: center;">PLAN _ _ _ _ _</p> <p>I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF WATERLOO AT _ _ _ _ _ O'CLOCK ON THE _ _ _ _ _ DAY OF _ _ _ 20____.</p> <p style="text-align: right;">_____ LAND REGISTRAR</p>	
<p>SCHEDULE</p> <p>THE PART ENUMERATED HEREUNDER REFERS TO AN EXISTING HIGHWAY ACQUIRED BY THE MINISTRY OF TRANSPORTATION.</p>			
PART	P.I.N.	LOCATION	
1	PART OF 03847-0002 (R)	PART OF LOTS 32 AND 33, CONCESSION 10	TOWNSHIP OF NORTH DUMFRIES
		PART OF LOT 32, CONCESSION 11	
		PART OF THE ORIGINAL ROAD ALLOWANCE BETWEEN CONCESSIONS 10 AND 11, abutting LOTS 32 AND 33, TOWNSHIP OF NORTH DUMFRIES	
<p>LEGEND</p> <p>MTO DENOTES MINISTRY OF TRANSPORTATION (ONTARIO) P.I.N. DENOTES PROPERTY IDENTIFIER NUMBER</p>			
<p>PRELIMINARY ASSUMPTION PLAN</p> <p>IN THE TOWNSHIP OF</p> <p>NORTH DUMFRIES</p> <p>REGIONAL MUNICIPALITY OF WATERLOO</p> <p>IN ACCORDANCE WITH</p> <p>THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT</p> <p>SCALE 1 : 1000</p> <div style="text-align: center;">  </div>			
<p style="text-align: right;">THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.</p>			
<p>_____ DATE < NAME > ONTARIO LAND SURVEYOR CHIEF SURVEYOR MINISTRY OF TRANSPORTATION</p> <p>< MINISTRY OF TRANSPORTATION OR C. OF A. HOLDER ></p>			
<p>MTO USE ONLY</p>			
<p>HWY 401</p>	<p>W.O. 00-32-008</p> <p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p>		<p>PRELIMINARY ASSUMPTION PLAN TYPE 'I'</p> <p>P-3164-75</p>
<p>INDEXED UNDER TWP. OF NORTH DUMFRIES</p>	<p>_____ < NAME > < TITLE ></p>		<p>GEOMATICS PLAN TECHNICIAN</p>
<p>SUPERVISOR</p>		<p>_____ _____ < MTO REGION ></p>	

401NDU/13164-75.dwg

5.2 Amended Preliminary Assumption Plan – Type “J”

The purpose of this type of plan is to correct errors, misstatements or omissions in a Preliminary Assumption Plan - type "I".

5.2.1 Statutory Authority

Section 9 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, is the authority for preparation of an amending preliminary assumption plan.

9. In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may cause to be registered in the proper land registry office a plan or description replacing or amending such original plan or description and signed by an Ontario land surveyor and one of,

- (a) the Minister;
- (b) the Deputy Minister;
- (c) an Assistant Deputy Minister of the Ministry; or
- (d) the Chief Surveyor of the Ministry,

and a plan registered under this section shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan or description to the extent that such plan or description is replaced or amended thereby.

5.2.2 Effect

When registered, an Amended Preliminary Assumption Plan is in substitution for and replaces the original plan to the extent the original is amended.

5.2.3 Authorized Signatories

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry

5.2.4 Plan Combination

An Amended Preliminary Assumption Plan shall not be combined with any other plan type.

5.2.5 Plan Requirements

- (a) All of the instructions for the preparation of a Preliminary Assumption Plan - type "I", the title block at the end of this section and the following additional instructions apply to the preparation of an Amended Preliminary Assumption Plan.

AN EXPLANATORY NOTE INDICATING THE NATURE OF THE AMENDMENT AND A CLEARLY WORDED EXPLANATION OR REASON FOR THE AMENDMENT MUST APPEAR ADJACENT TO THE TITLE BLOCK ON ALL AMENDING PLANS.

- (b) The portion of the road being amended must be clearly defined.
- (c) The route erroneously shown on the plan being amended must be clearly defined by dashed lines.
- (d) The plan shall contain an accurate schedule of lots, concessions, plans etc. using the operating words:

THE PART ENUMERATED HEREUNDER REFERS TO A PORTION OF HIGHWAY INTENDED TO BE ACQUIRED BY THE MINISTER OF TRANSPORTATION BY PLAN _____ REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF _____ AS NUMBER _____ WHICH IS HEREBY AMENDED.

5.2.6 Supplemental Information

Where the designation of the King's or Secondary Highway requires amendment, the Amended Assumption Plan P-number, its registration number and registration date are to be included in a recommendation for an Order in Council to re-designate same.

If the wrong highway or street has been assumed or the length of assumption is too great, an Amending Preliminary Assumption Plan may be prepared. This is left to the discretion of the Regional Geomatics Section in consultation with the Geomatics Office. A Transfer Plan type "R" may be prepared in order to correct the situation.

If the assumption did not cover the total length required, the existing Preliminary Assumption Plan may be amended to show the total requirement or another Preliminary Assumption Plan type "I" may be prepared to acquire the additional highway not acquired by the initial assumption.

5.3 Assumption Plan (Replacing) – Type “K”

An Assumption Plan (Replacing) is a plan of survey prepared to replace all of or part of a Preliminary Assumption Plan - type "I" showing the location and boundaries of a highway vested in the Crown by the registration of the Preliminary Assumption Plan.

5.3.1 Definition

Assume – to undertake obligations, liabilities, rights or interests. Following an assumption of a highway, the Ministry is responsible and liable for its maintenance and repair.

5.3.2 Statutory Authority

Subsection 8(2) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, chapter P.50 as amended, authorizes and directs the Minister to replace a Preliminary Assumption Plan with an Assumption Plan.

8. (2) The Minister, before registering an "Assumption Plan", may register in the proper land registry office, a preliminary plan of the highway to be known as and marked "Preliminary Assumption Plan/Plan préliminaire d'appropriation", and such Preliminary Assumption Plan when registered has the same force and effect as an Assumption Plan registered under subsection (1), but an Assumption Plan of the highway or a Notice of Assumption referring to a plan registered in the proper land registry office shall thereafter be registered under subsection (1).

5.3.3 Effect

The replacing plan does not vest the highway in the Crown. The highway became vested in the Crown when the Preliminary Assumption Plan was registered. However, the replacing plan is prepared as a statutory requirement under the act and serves to define the extent more accurately by field survey.

5.3.4 Authorized Signatories

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister; or
- the Chief Surveyor of the Ministry

5.3.5 Plan Combination

An Assumption Plan (Replacing) may be combined with a Crown Land Plan - type "E" and/or an Amended Assumption Plan - type "M". In areas without municipal organization, it is permissible to combine the replacing Assumption Plan with an Assumption Plan - type "L". This combination, however, should be regarded as the exception. The alternative to this last mentioned combination may be the use of a Notice of Assumption.

5.3.6 Plan Requirements

- (a) If the PARTS on the plan involve both Registry and Land Titles Divisions, a separate schedule and registration certificate must be shown for each.
- (b) If any of the PARTS illustrate Crown land, these should be indicated in a schedule for the Land Titles Division (if available) and a Crown Land Certificate shall be included in the Title Block.
- (c) When this plan is combined with another plan type, additional schedules and the appropriate certificates shall be added to the title block.
- (d) If buildings encroach on the existing road as established by the surveyor, it is advisable to establish separate parts, clearing the building by at least 2 metres or sufficient distance to allow private access and then in consultation with the Regional Legal and Property staff, determine if these should be included in the assumption, or what other action should be taken. It may be advisable to include such encroachments as part of the assumption and at a later date, close the portion by Order in Council and dispose of it to the adjacent owner.

5.3.7 Operating Words

The schedule shall contain the following operating words;

- (a) For land within a Land Titles Division:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO PORTIONS OF HIGHWAY ACQUIRED BY PRELIMINARY ASSUMPTION PLAN A-49-19, REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF _____AS NUMBER_____, WHICH ARE HEREBY REPLACED.

- (b) For land within a Registry Division:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO PORTIONS OF HIGHWAY ACQUIRED BY PRELIMINARY ASSUMPTION PLAN A-49-19 REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF _____AS NUMBER _____WHICH ARE HEREBY REPLACED.

5.3.8 Approval

The Assumption Plan (Replacing) is prepared as a part of the ongoing procedure to fulfill the statutory requirements of replacing the Preliminary Assumption Plan and requires no further authorization or approvals. If it is combined with a Crown Land Plan - type "E", then the property request will be the authorization for the acquisition of the additional Crown lands.

5.3.9 Supplemental Information

The Ministry has from time to time acquired hundreds of miles of existing public highways which cross land registered under the *Land Titles Act*. In many instances no specific reference to the existence of the highway appears in the parcel register.

In those parts of the Province, where no provision was made for road allowances in the original Crown Surveys of townships, a 5% reservation for roads was made in the Crown grants. Many miles of public highways were constructed across registered lands by the Crown and municipal authorities under the 5% clause with no specific reference made to these highways in the register. There were also many miles of public highways constructed prior to the issue of Letters Patent by the Crown, which are deemed to be excepted therefrom by reason of the provisions of the *Public Lands Act*.

The absence of any specific mention in the parcel register to an existing public highway crossing registered land has resulted in the erroneous conclusions that the registered owners are the owners of the land occupied by the highway. In this connection, refer to subsection 44(1) of the *Land Titles Act*.

44. (1) All registered land, unless the contrary is expressed on the register, is subject to such of the following liabilities, rights and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed to be encumbrances within the meaning of this Act:

....

8. Any public highway.

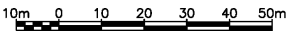
Clauses 44.(1)1 through 44.(1)7, and 44.(1)9 do not apply.

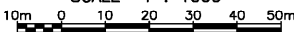
5.3.10 Special Consideration

A survey for the preparation of an Assumption Plan (Replacing) should include any legal widenings, visibility triangles or dedications that abut the existing road as of the registration date of the Preliminary Assumption Plan. At an intersecting road, it is Ministry policy to extend the assumption across the road to the full width of right-of-way.

If the assumption crosses a river whose jurisdiction is under the control of the Province, the Ministry will acquire title to the road, the bridge and the land under water to the full width of the right-of-way, be it the width of the bridge only, the width of the road allowance, or the width of the full right-of-way.

Caution should be exercised if the bridge involved is a swing or lift bridge over a federal government facility such as a canal. Generally, Ministry policy is to exclude the facility from the assumption then enter into an agreement with the federal authorities to cover the maintenance of the road surface on the bridge. The same caution may apply to roads which extend over dams or other structures; an agreement with the operating authority may be required.

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048		PLAN I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF _____ AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____.											
SCHEDULE THIS PLAN HEREBY REPLACES THAT PORTION OF PRELIMINARY ASSUMPTION PLAN P-8133, REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF ANTON AS MISC. 305, THAT ACQUIRED THE PART ENUMERATED HEREUNDER.													
PART	LOT	CONCESSION	AREA										
1	12	7	7542.8 m ²										
LEGEND <table style="width: 100%;"> <tr> <td style="width: 10%;">△ HCM</td> <td>DENOTES HORIZONTAL CONTROL MONUMENT</td> </tr> <tr> <td>□</td> <td>DENOTES SET MONUMENT</td> </tr> <tr> <td>■</td> <td>DENOTES FOUND MONUMENT</td> </tr> <tr> <td>MTO</td> <td>DENOTES MINISTRY OF TRANSPORTATION OF ONTARIO</td> </tr> <tr> <td>MEAS</td> <td>DENOTES MEASURED</td> </tr> </table>				△ HCM	DENOTES HORIZONTAL CONTROL MONUMENT	□	DENOTES SET MONUMENT	■	DENOTES FOUND MONUMENT	MTO	DENOTES MINISTRY OF TRANSPORTATION OF ONTARIO	MEAS	DENOTES MEASURED
△ HCM	DENOTES HORIZONTAL CONTROL MONUMENT												
□	DENOTES SET MONUMENT												
■	DENOTES FOUND MONUMENT												
MTO	DENOTES MINISTRY OF TRANSPORTATION OF ONTARIO												
MEAS	DENOTES MEASURED												
NOTES DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.999985. BEARINGS HEREON ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL SURVEY MONUMENTS 0079812346 (N 4954121.000E 359015.000) AND 0079824680 (N 4954219.202 E 359129.491) AND BASED ON THE MTM COORDINATE SYSTEM ZONE 10, AND ARE REFERRED TO THE CENTRAL MERIDIAN 79°30' WEST LONGITUDE. (NAD83(ORIG) ADJUSTMENT)													
ASSUMPTION PLAN IN THE GEOGRAPHIC TOWNSHIP OF SEBASTIAN DISTRICT OF ANTON IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT													
SCALE 1 : 1000 													
SURVEYOR'S CERTIFICATE I CERTIFY THAT: <table style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 50%; vertical-align: top;"> 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM. 2. THE SURVEY WAS COMPLETED ON THE 17th DAY OF SEPTEMBER, 2008. </td> <td style="width: 50%; vertical-align: top;"> THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HERBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____. </td> </tr> </table>				1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM. 2. THE SURVEY WAS COMPLETED ON THE 17th DAY OF SEPTEMBER, 2008.	THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HERBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.								
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM. 2. THE SURVEY WAS COMPLETED ON THE 17th DAY OF SEPTEMBER, 2008.	THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HERBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.												
DATE	< NAME > ONTARIO LAND SURVEYOR <C of A HOLDER NAME>	CHIEF SURVEYOR MINISTRY OF TRANSPORTATION											
MTO USE ONLY													
HWY 73	W.P. 1234-56-78 P.R. 01/0001 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS		ASSUMPTION PLAN TYPE 'K' P-1357-91										
INDEXED UNDER TOWNSHIP OF <TWP NAME>	<NAME>	<TITLE>											
SUPERVISOR		GEOMATICS PLAN TECHNICIAN											
< MTO REGION >		P-1357-91.DWG											

<p align="center">CROWN LAND CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN WAS DEPOSITED IN THE OFFICE OF THE MINISTRY OF NATURAL RESOURCES AT PETERBOROUGH THIS ____ DAY OF _____, 20____, FILE _____</p> <p align="center">_____ < NAME > SURVEYOR GENERAL</p>		<p>PLAN _____</p> <p>I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF _____ AT _____ O'CLOCK ON THE ____ DAY OF _____, 20____ AND ENTERED IN THE PARCEL REGISTER FOR PROPERTY IDENTIFIER _____</p> <p align="center">_____ LAND REGISTRAR</p>		
<p align="center">METRIC</p> <p>DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>				
<p>SCHEDULES</p>				
<p>THE PART ENUMERATED HEREUNDER REFERS TO PORTIONS OF HIGHWAY ACQUIRED BY PRELIMINARY ASSUMPTION PLAN P-1900-28 REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF CHAMPLAIN AS MISC. 132987 WHICH ARE HEREBY REPLACED.</p>				
PART	LOT	CONCESSION	PIN	AREA
1	8	5	PART OF 07125-0119	8476.3 ²
<p>THE PARTS ENUMERATED HEREUNDER ARE VESTED IN THE CROWN AND ARE UNDER THE JURISDICTION AND CONTROL OF THE MINISTRY OF TRANSPORTATION.</p>				
PART	LOT	CONCESSION	PIN	AREA
2	9	5	PART OF 07125-0121	347.2 ²
<p>NOTES</p> <p>DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.99998</p> <p>BEARINGS HEREON ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL SURVEY MONUMENTS 20010101 (N 123456.789 E 248810.731) AND 20100202 (N 987654.321 E 108642.789) AND BASED ON THE MTM COORDINATE SYSTEM ZONE 10, AND ARE REFERRED TO THE CENTRAL MERIDIAN 79°30' WEST LONGITUDE. (NAD83(ORIG) ADJUSTMENT)</p>				
<p>ASSUMPTION PLAN AND CROWN LAND PLAN</p> <p>IN THE GEOGRAPHIC TOWNSHIP OF LAWRENCE DISTRICT OF JONES</p> <p>IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT</p> <p>SCALE 1 : 1000</p> 				
<p>SURVEYOR'S CERTIFICATE</p> <p>I CERTIFY THAT:</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.</p> <p>2. THE SURVEY WAS COMPLETED ON THE ____th DAY OF _____, 20____.</p> </div> <div style="width: 45%;"> <p>THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HERBY MAKE APPLICATION THAT IT BE DEPOSITED WITH THE MINISTER OF NATURAL RESOURCES AND REGISTERED IN THE PROPER LAND REGISTRY OFFICE. DATED AT ST. CATHARINES THIS ____ DAY OF _____, 20____.</p> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;"> <p>_____ DATE</p> </div> <div style="width: 30%;"> <p>_____ < NAME > ONTARIO LAND SURVEYOR</p> </div> <div style="width: 30%;"> <p>_____ CHIEF SURVEYOR MINISTRY OF TRANSPORTATION</p> </div> </div> <p>< MINISTRY OF TRANSPORTATION OR C. OF A. NAME > _____</p>				
<p>MTO USE ONLY</p>				
<p>HWY 197</p>	<p>W.O. 2345-87-23</p>	<p>P.R. 22/2916</p>	<p>ASSUMPTION & CROWN LAND PLAN TYPE 'K' & 'E'</p>	
<p>INDEXED UNDER TOWNSHIP OF LAWRENCE</p>	<p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p>		<p align="center">P-137-25</p>	
<p>_____ SUPERVISOR</p>	<p>_____ <NAME></p>	<p>_____ <TITLE></p>	<p>_____ GEOMATICS PLAN TECHNICIAN</p>	
<p>< MTO REGION ></p>			<p>P-137-25.DWG</p>	

5.4 Assumption Plan – Type “L” and Notice of Assumption

This Assumption Plan is a plan of survey and is prepared to acquire existing highways and dedications shown on registered plans.

5.4.1 Definitions

Highway – A road open to the public as a right for the purposes of passing and re-passing. A highway may be created by by-law, dedication, acceptance, long standing use, statute, or by prescription. Roads can also be expressly reserved or excepted in a Crown Patent.

"Highway" is defined in the *Public Transportation and Highway Improvement Act* as including "a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle or any other structure incidental thereto, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;".

The above is a broader definition of “Highway” than that set out in section 26 of the *Municipal Act 2001*, S.O. 2001, Chapter 25.

26. The following are highways unless they have been closed:

1. All highways that existed on December 31, 2002.
2. All highways established by by-law of a municipality on or after January 1, 2003.
3. All highways transferred to a municipality under the *Public Transportation and Highway Improvement Act*.
4. All road allowances made by the Crown surveyors that are located in municipalities.
5. All road allowances, highways, streets and lanes shown on a registered plan of subdivision.

Existing Highway – As referred to in the *Public Transportation and Highway Improvement Act* means a common and public highway which exists whether in law or in fact. A common and public highway which exists in fact is one which has a physical existence on the ground and is in use by the public. A common and public highway which exists in law but not in fact can include an unopened road allowance or an unopened street on a registered plan of subdivision. In general, existing common and public highways are those highways which are defined as highways by the *Municipal Act*.

Assume – To undertake obligations, liabilities, rights or interests. Following an assumption of a highway, the Ministry is responsible and liable for highway maintenance and repair.

Dedication – An act on the part of the owner of land in which the owner donates lands to the

public for their use either as a highway or a public park. The act of dedication must be clear and unequivocal. The most common form of dedication is that of streets and lanes on a registered plan of subdivision. Where streets and lanes are dedicated and shown on a registered plan, they do not become public highways until accepted by a road authority.

Acceptance – The act of assenting to an offer. It may be formal, as in the case of a by-law passed by a Municipal Council or by filing an Assumption Plan or a Notice of Assumption by the Minister of Transportation under *the Public Transportation and Highway Improvement Act*. Acceptance may be inferred by a road authority's continual spending of public funds on the construction, maintenance and repair of the highway in question.

Prescription – The vesting of a right by reason of the lapse of time. A person acquiring the use to land, adverse to that of the legal owner, is said to have acquired his right by prescription.

5.4.2 Statutory Authority

Subsection 8(1) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, empowers the Minister to acquire an existing highway by using an Assumption Plan or a Notice of Assumption.

8. (1) Where the Minister desires to acquire an existing highway, he or she shall register in the proper land registry office,

(a) a plan of the highway to be known as and marked "Assumption Plan/Plan d'appropriation"; or

(b) a notice to be known as and marked "Notice of Assumption/ Avis d'appropriation" referring to a plan of the highway registered in the proper land registry office, and thereupon the highway vests in the Crown and the Minister forthwith shall give notice in writing of such vesting to any municipality concerned.

5.4.3 Effect

Upon registration of the plan or notice in the proper Land Registry Office, the highway vests in the Crown and is under the jurisdiction and control of the Ministry. The Ministry shall give notice in writing of such vesting to any municipality concerned.

NOTE: Before the enactment of the *Provincial Highway Act* in 1917, all public highways in incorporated municipalities were vested in the municipality; therefore, before the Crown could re-vest a particular highway in itself it had to take some action to remove the highway from municipal control. This was done by "assuming" the highway. To assume a highway means to take over control of it and upon its assumption the soil and freehold previously vested in the municipal corporation becomes vested in the Crown. In areas that are without municipal organization the soil and freehold is already vested in the Crown. In these cases, MTO only needs to acquire jurisdiction and control of the lands in question.

5.4.4 Authorized Signatories

The *Public Transportation and Highway Improvement Act* requires that this plan or notice be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister of the Ministry; or
- the Chief Surveyor of the Ministry.

5.4.5 Plan Combination

An Assumption Plan-type "L" may be combined with an Amended Assumption Plan - type "M" and/or a Crown Land Plan - type "E". In areas without municipal organization it is permissible to combine an Assumption Plan (Replacing) - type "K" and an Assumption Plan - type "L" where it is found advantageous to reduce the work load. This combination should be regarded as the exception rather than the rule. The alternative to combining the last mentioned plans is to use a Notice of Assumption.

5.4.6 Plan Requirements

- (a) If the PARTS on the plan involve both the Registry and Land Titles Division, a separate schedule and registration certificate must be shown for each.
- (b) If any of the PARTS illustrate Crown land, these should be indicated in a schedule for the Land Titles Division (if available) and a Crown Land Certificate shall be included in the Title Block.
- (c) When this plan is combined with another plan type, additional schedules and the appropriate certificates shall be added to the title block.
- (d) If buildings encroach on the existing road as established by the Surveyor, it is advisable to establish separate parts, clearing the building by at least 2 metres and then in consultation with the Regional Legal and Property staff determine if these should be included in the assumption, or what other action should be taken.

5.4.7 Operating Words

The schedule shall contain the following operating words:

THE PART(S) ENUMERATED HEREUNDER REFER(S) TO AN EXISTING
HIGHWAY ACQUIRED BY THE MINISTER OF TRANSPORTATION

5.4.8 Types of Roads Which May be Assumed by the Minister

Roads which may be assumed include:

- Road allowances

- Roads established by Municipal By-law or by authority of a Statute Labour Board or other statutory authority.
- Traveled Roads through unpatented Crown Lands.

(Note: Section 63 of the *Public Lands Act*, R.S.O. 1990, states, “Any part of the public lands that is a beach and is used for travel by the public is not by reason only of such use a highway within the meaning of any Act.”)

- Trespass or Forced Roads – Trespass or Forced roads which have been travelled by the public for at least 20 years, i.e. publicly travelled roads which have been built across privately owned lands and on which no action has been taken to transfer the title of the right-of-way to a road authority.

NOTE: Before the Ministry may acquire title to a highway by prescription there must be a dedication, either express or implied, by the owner of the land over which the highway passes. This could involve some difficulty in proving that the owners did in fact dedicate the land for highway purposes and could involve extensive research to build a factual history of the portion of highway involved for a period of at least 30 years. As there is always the possibility of litigation, the legal branch should be consulted. The simplest method may be to compensate the owner and obtain title to the property.

- Roads for which the corridor has been acquired by deed or transfer by the Department of Northern Development.
- Reservations for roads by the Crown in the original patent or roads set aside or laid out by the Crown.
- Streets, roads and road widening dedicated on subdivision plans.
- Roads for which the corridor has been acquired by expropriation, deed or transfer by some road authority.
- Bridge structures.

Caution should be exercised if the bridge in question is a swing or lift bridge over a Federal Government facility such as a canal. Generally, Ministry policy is to stop the assumption on each side of the facility, then enter into an agreement with the Federal authorities for maintenance of the road surface. The same caution may apply to roads which extend over dams or other structures, an agreement with the operating authority may be required.

If the assumption will extend across a navigable river or body of water where jurisdiction is under the control of the Province, the Ministry will acquire control over the road, the bridge, the land and land under water to the width of the constructed corridor, such as: the width of the bridge or the width of the road allowance, if such allowance or road was defined by the previous road authority. Such width should be clarified when an Assumption Plan (Replacing) is prepared and it must be noted that original township road allowances do not extend across navigable waters.

Generally all public highways that are contained within the proposed corridor with the

exception of intersecting roads should be assumed.

If the corridor has been, or will be designated as the King's Highway, etc. then it is sufficient to rely on section 20 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, to give the Ministry title to roads that intersect or cross the corridor.

20. (1) Except as otherwise designated by the Lieutenant Governor in Council, where the King's Highway, other than a proposed highway, intersects a highway that is not the King's Highway, the continuation of the King's Highway to its full width across the highway so intersected is the King's Highway and shall be deemed to be vested in the Crown and under the jurisdiction and control of the Ministry.

5.4.9 Approval

The Request for Assumption or a Property Request Plan is used as the authority for preparing a plan. A print of the plan must be sent to the Regional Planning and Design Section (Corridor Control Officer) for approval before final processing.

5.4.10 Supplemental Information

The Ministry has from time to time acquired hundreds of miles of existing public highways which cross land registered under the *Land Titles Act*. In many instances no specific reference to the existence of the highway appears in the parcel register.

In those parts of the Province, where no provision was made for road allowances in the original Crown Surveys of townships, a 5% reservation for roads was made in the Crown grants. Many miles of public highways constructed across registered lands by the Crown and municipal authorities under the 5% clause with no specific reference made to these highways in the register. There were also many miles of public highway constructed prior to the issue of Letters Patent by the Crown, which are deemed to be excepted therefrom by reason of the provisions of the *Public Lands Act*. The absence of any specific mention in the parcel registers to existing public highways crossing registered land has resulted in the erroneous conclusion that the registered owners are the owners of the land occupied by the highways. In this connection refer subsection 44(1) of the *Land Titles Act*.

44. (1) All registered land, unless the contrary is expressed on the register, is subject to such of the following liabilities, rights and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed to be encumbrances within the meaning of this Act:

....

8. Any public highway.

Clauses 44(1)1 through 44(1)7, and 44(1)9 do not apply.

5.4.11 Notice of Assumption

Subsection 8(1) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, chapter P.50 as amended, authorizes the Minister to acquire an existing highway by either an Assumption Plan or a Notice of Assumption. Subsection 8(2) authorizes him to replace a Preliminary Assumption Plan by either an Assumption Plan or a Notice of Assumption. The Act states that the Notice may be used in lieu of the two plans when it can make reference to a plan illustrating the highway which has been previously registered in the proper Land Registry Office. In such a case, the registration of the Notice has the same force and effect as the registration of an Assumption Plan.

When it appears that a portion of an existing highway will have to be assumed, or that a Preliminary Assumption Plan should be replaced, the Project Surveyor will search the Ministry files to determine if the assumption has been adequately defined on a previously registered plan, or if it could be defined on a plan presently being drafted for another purpose. If this is so, the road should be assumed by a Notice of Assumption rather than an Assumption Plan. The search should not be restricted to Ministry files because any plan that is registered in the Land Registry Office may be referred to.

Once the decision has been made to prepare a Notice of Assumption, the following points should be considered when writing the document:

- (a) When making reference to a highway or to a portion or portions of a highway, it should be kept in mind that the term "highway" may be used in reference to both a continuous section of road extending over a considerable distance or to a short section of road which may be defined by several contiguous parts on a Reference Plan. If several scattered plan PARTS are being considered, they may be referred to as "portions of" a highway. Each of the following phrases has a specific meaning and should be used in an appropriate manner;

"that the highway described as follows "

"that the portion of highway described as follows "

"that those portions of highway described as follows "

- (b) The word "In" should be capitalized at the beginning of the description part of the Notice:
"In the Township of Kirkup, in the District of Kenora....."

- (c) The word "PART" should be fully capitalized when referring to a specific PART on a Reference Plan:
" designated as PARTS 1 and 2....."

- (d) Punctuation and capitalization must conform to the standards of good English composition;

- (e) Verbs must be properly pluralized when referring to portions of highway such as:

" that the portion of highway described as follows:
.....

is acquired and vests in the Crown etc."

or

"..... that those portions of highway described as follows:

.....
.....

are acquired and vest in the Crownetc."

- (f) Notices should not be made subject to easements or other rights in land.
- (g) Self-contained daylighting triangles or street widenings on a Plan of Subdivision should not be referred to as a named street.
- (h) Road allowances between townships should not be referred to as being part of a township.
- (i) The word "now" must be inserted before the words "described as follows" in an assumption made subsequent to a preliminary assumption.
- (j) All Notices shall be dated at St. Catharines, the day and the month to be filled in when the document is signed by the Chief Surveyor.
- (k) A print of the illustrating plan(s) should always accompany the Notice when any distribution is directed towards offices other than the Land Registry Office. For registration, a copy of the plan is not required.

SAMPLE NOTICE OF ASSUMPTION

Acquisition of a Street shown on a Registered Plan

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
NOTICE OF ASSUMPTION

To the Land Registrar
for the Registry Division of Hastings:

IN THE MATTER OF acquisition by the Minister of Transportation of an existing highway
in the Township of McLure, in the County of Hastings,

NOTICE IS HEREBY GIVEN by the Minister of Transportation that the highway described as
follows:

In the Township of McLure, in the County of Hastings, in the Province of Ontario, being
Bluebell Street as shown on a plan registered in the Land Registry Office for the Registry
Division of Hastings as Plan 3636;

is acquired and vests in the Crown in accordance with the provisions of subsection 8(1) of the *Public
Transportation and Highway Improvement Act*, R.S.O. 1990, chapter P.50 as amended.

Dated at St. Catharines, this _____ day of _____ 20 ____.

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

SAMPLE NOTICE OF ASSUMPTION
Acquisition of a small portion of highway

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
NOTICE OF ASSUMPTION

To the Land Registrar
for the Land Titles Division of Nipissing:

IN THE MATTER OF acquisition by the Minister of Transportation of a portion of an existing highway in the Township of
Airy, in the District of Nipissing,

NOTICE IS HEREBY GIVEN by the Minister of Transportation that the portion of highway described as follows:

In the Township of Airy, in the District of Nipissing, in the Province of Ontario and
being a portion of Lot 5, Concession 6, designated as PART 3 on a plan filed with the
Ministry of Transportation as P-2016-3 being a Reference Plan deposited in the Land
Registry Office for the Land Titles Division of Nipissing as Plan 36R-3237;

is acquired and vests in the Crown in accordance with the provisions of subsection 1(1) of the *Public
Transportation and Highway Improvement Act*, R.S.O. 1990, chapter P.50 as amended.

Dated at St. Catharines, this ____ day of _____ 20____ .

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

SAMPLE NOTICE OF ASSUMPTION
Acquisition of small portions of a Road Allowance

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
NOTICE OF ASSUMPTION

To the Land Registrar
for the Registry Division of Simcoe:

IN THE MATTER OF acquisition by the Minister of Transportation of portions of an existing highway in the Town of Midland, in the County of Simcoe,

NOTICE IS HEREBY GIVEN by the Minister of Transportation that those portions of highway described as follows:

In the Town of Midland, in the County of Simcoe, in the Province of Ontario and being those portions of the Original Road Allowance between Concession 3 and Concession 4, in front of Lots 21 to 23 inclusive, of the Geographic Township of Oro, designated as PARTS 1, 2 and 5 on a plan filed with the Ministry of Transportation as P-6021-14 being a Reference Plan deposited in the Land Registry Office for the Registry Division of Simcoe as Plan 51R-4141;

are acquired and vest in the Crown in accordance with the provisions of subsection 8(1) of the *Public Transportation and Highway Improvement Act*, R. S.O. 1990, chapter P.50 as amended.

Dated at St. Catharines, this _____ day of _____, 20_____.

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

SAMPLE NOTICE OF ASSUMPTION
Acquisition of a Road Allowance between Townships and Other Lands

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
NOTICE OF ASSUMPTION

To the Land Registrar
for the Registry Division of Frontenac:

IN THE MATTER OF acquisition by the Minister of Transportation of portions of an existing highway in the Township of Portland in the County of Frontenac,

NOTICE IS HEREBY GIVEN by the Minister of Transportation that those portions of highway described as follows:

1. In the Township of Portland, in the County of Frontenac, in the Province of Ontario being those portions of Lot 8, Concession 14, designated as PARTS 11, 17 and 19, and
2. In the County of Frontenac, in the Province of Ontario, being those portions of the Original Road Allowance between the Township of Hinchinbrooke and the Township of Portland in front of Lot 8, Township of Portland, designated as PARTS 1 and 2,

on a plan filed with the Ministry of Transportation as P-2065-65, being a Reference Plan deposited in the Land Registry Office for the Registry Division of Frontenac as Plan 13R-1415;

are acquired and vest in the Crown in accordance with the provisions of subsection 8(1) of the *Public Transportation and Highway Improvement Act*, R. S.O. 1990, chapter P.50 as amended.

Dated at St. Catharines, this ____ day of _____, 20 ____.

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

SAMPLE NOTICE OF ASSUMPTION
Acquisition of a Highway

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
NOTICE OF ASSUMPTION

To the Land Registrar
for the Registry Division of Frontenac:

IN THE MATTER OF acquisition by the Minister of Transportation of portions of an
existing highway in the Township of Portland in the County of
Frontenac,

NOTICE IS HEREBY GIVEN by the Minister of Transportation that those portions of
highway described as follows:

In the Township of Portland, in the County of Frontenac, in the Province of Ontario, being

1. part of Lot 9, Concession 14, designated as PART 1,
2. parts of Lot 9, Concession 13, designated as PARTS 5 and 15,
3. part of Lot 8, Concession 13, designated as PART 14,
4. parts of the Original Road Allowance between Concessions 13 and 14, in front of Lot 9,
designated as PARTS 2 and 3, and
5. parts of the Original Road Allowance between Lots 8 and 9, Concession 12, designated
as PARTS 17 and 18,

on a plan filed with the Ministry of Transportation as P-2065-63, being a Reference Plan
deposited in the Land Registry Office for the Registry Division of Frontenac as Plan
13R-1413;

are acquired and vest in the Crown in accordance with the provisions of subsection 8(1) of the
Public Transportation and Highway Improvement Act, R. S.O. 1990, chapter P.50 as amended.

Dated at St. Catharines, this _____ day of _____, 20__ .

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

SAMPLE NOTICE OF ASSUMPTION
Acquisition of a Dedication, etc.

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
NOTICE OF ASSUMPTION

To the Land Registrar
for the Land Titles Division of Algoma:

IN THE MATTER OF acquisition by the Minister of Transportation of portions of an
existing highway in the Township of Thessalon, in the District
of Algoma,

NOTICE IS HEREBY GIVEN by the Minister of Transportation that those portions of
highway described as follows:

In the Township of Thessalon, in the District of Algoma, in the Province of
Ontario, being all of Blocks "A", "B" and "D" shown on a plan registered in the
Land Registry Office for the Land Titles Division of Algoma as M-3773 for
the Geographic Township of Leroy,

are acquired and vest in the Crown in accordance with the provisions of subsection 8(1)
of the *Public Transportation and Highway Improvement Act*, R. S.O. 1990, chapter P.50
as amended.

Dated at St. Catharines, this _____ day of _____ 20 ____ .

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

SAMPLE NOTICE OF ASSUMPTION

Acquisition subsequent to Preliminary Assumption in an organized Township comprised of more than one Geographic Township

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT NOTICE OF ASSUMPTION

To the Land Registrar
for the Land Titles Division of Cochrane:

IN THE MATTER OF an existing highway in the Township of Black River-
Matheson, in the District of Cochrane,

AND IN THE MATTER OF a Preliminary Assumption Plan registered in the Land Registry
Office for the Land Titles Division of Cochrane on the 10th day of June, 1968 as
No. Misc-1212,

NOTICE OF ASSUMPTION IS HEREBY GIVEN by the Minister of Transportation
subsequent to the registration of the above-mentioned Preliminary Assumption Plan in
accordance with the provisions of section 8 of the *Public Transportation and Highway
Improvement Act*, R.S.O.1990, chapter P.50 as amended, in respect to that portion of highway
now described as follows:

In the Township of Black River-Matheson, in the District of Cochrane, in the
Province of Ontario, and being a portion of Lot 9, Concession 6, of the
Geographic Township of Taylor, designated as PART 1 on a plan filed with
the Ministry of Transportation as P-7075-2 being a Reference Plan
deposited in the Land Registry Office for the Land Titles Division of Cochrane
as Plan CR-1393.

Dated at St. Catharines, this _____ day of _____, 20 ____ .

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

SAMPLE NOTICE OF ASSUMPTION

Acquisition subsequent to Preliminary Assumption of a Highway Using a Schedule

THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT
NOTICE OF ASSUMPTION

To the Land Registrar
for the Registry Division of Peel:

IN THE MATTER OF a portion of an existing highway in the City of Mississauga in
the Regional Municipality of Peel, (formerly in the Town of
Mississauga, in the County of Peel),

AND IN THE MATTER OF a Preliminary Assumption Plan registered in the Land
Registry Office for the Land Titles Division of Peel on the
10th day of June, 1967 as No. 55155,

NOTICE OF ASSUMPTION IS HEREBY GIVEN by the Minister of Transportation
subsequent to the registration of the above-mentioned Preliminary Assumption Plan in
accordance with the provisions of section 8 of the *Public Transportation and Highway
Improvement Act*, R.S.O. 1990, chapter P.50 as amended, in respect to that portion of highway
now described in the attached schedule.

Dated at St. Catharines, this _____ day of _____, 20 ____.

Ontario Land Surveyor

The Chief Surveyor of the
Ministry of Transportation

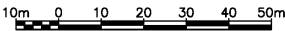
SCHEDULE

In the City of Mississauga, in the Regional Municipality of Peel (formerly in the Town of Mississauga, in the County of Peel), in the Province of Ontario, being

- 1) (a) part of Lot 29 and Lot 30, Concession 1, South of Dundas Street, of the Geographic Township of Toronto, designated as PART 1,


(b) part of Lot 29 and Lot 30, Concession 1, South of Dundas Street, part of Lot 14, Range 3, Credit Indian Reserve and part of the Original Road Allowance between Concession 1, South of Dundas Street and Range 3, Credit Indian Reserve in front of Lot 30, of the Geographic Township of Toronto, designated as PART 2, and

(c) parts of Lot 14, Range 3, Credit Indian Reserve, of the Geographic Township of Toronto, designated as PARTS 3 and 6, on a plan filed with the Ministry of Transportation as P-1857-268, deposited in the Land Registry Office for the Registry Division of Peel as Plan 43R-1486;
- 2) part of Lot 31, Concession 2, South of Dundas Street, of the Geographic Township of Toronto, designated as PART 1 on a plan filed with the Ministry of Transportation as P-1857-269, deposited in the Land Registry Office for the Registry Division of Peel as Plan 43R-1674;

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048		PLAN I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF _____ AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____.																
SCHEDULE THE PART ENUMERATED HEREUNDER REFERS TO AN EXISTING HIGHWAY ACQUIRED BY THE MINISTER OF TRANSPORTATION.		LAND REGISTRAR _____																
PART	LOT	CONCESSION	AREA															
1	PART OF 10	6	6333.8 m ²															
LEGEND <table style="width: 100%; border: none;"> <tr> <td style="width: 10%;">△ HCM</td> <td style="width: 10%;">DENOTES</td> <td style="width: 80%;">HORIZONTAL CONTROL MONUMENT</td> </tr> <tr> <td>□</td> <td>DENOTES</td> <td>SET MONUMENT</td> </tr> <tr> <td>■</td> <td>DENOTES</td> <td>FOUND MONUMENT</td> </tr> <tr> <td>MTD</td> <td>DENOTES</td> <td>MINISTRY OF TRANSPORTATION OF ONTARIO</td> </tr> <tr> <td>MEAS</td> <td>DENOTES</td> <td>MEASURED</td> </tr> </table>				△ HCM	DENOTES	HORIZONTAL CONTROL MONUMENT	□	DENOTES	SET MONUMENT	■	DENOTES	FOUND MONUMENT	MTD	DENOTES	MINISTRY OF TRANSPORTATION OF ONTARIO	MEAS	DENOTES	MEASURED
△ HCM	DENOTES	HORIZONTAL CONTROL MONUMENT																
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■	DENOTES	FOUND MONUMENT																
MTD	DENOTES	MINISTRY OF TRANSPORTATION OF ONTARIO																
MEAS	DENOTES	MEASURED																
NOTES DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.999985. BEARINGS HEREON ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL SURVEY MONUMENTS 0079812346 (N 4954121.000E 359015.000) AND 0079824680 (N 4954219.202 E 359129.491) AND BASED ON THE MTM COORDINATE SYSTEM ZONE 10, AND ARE REFERRED TO THE CENTRAL MERIDIAN 79°30' WEST LONGITUDE. (NAD83(ORIG) ADJUSTMENT)																		
ASSUMPTION PLAN IN THE GEOGRAPHIC TOWNSHIP OF SULLIVAN DISTRICT OF HERBERT IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT																		
SCALE 1 : 1000 																		
SURVEYOR'S CERTIFICATE I CERTIFY THAT:																		
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.		THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HERBY MAKE APPLICATION THAT IT BE REGISTERED IN THE PROPER LAND REGISTRY OFFICE. DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.																
2. THE SURVEY WAS COMPLETED ON THE 17th DAY OF SEPTEMBER, 2008.																		
DATE	<NAME> ONTARIO LAND SURVEYOR <C of A HOLDER NAME>	CHIEF SURVEYOR MINISTRY OF TRANSPORTATION																
MTO USE ONLY																		
HWY 73	W.P. 1234-56-79 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS	P.R. 01/0002	ASSUMPTION PLAN TYPE 'L'															
INDEXED UNDER TOWNSHIP OF SULLIVAN	<NAME>	<TITLE>	P-1357-92															
SUPERVISOR	GEOMATICS PLAN TECHNICIAN																	

< MTO REGION >

P-1357-92.DWG

<p align="center">CROWN LAND CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN WAS DEPOSITED IN THE OFFICE OF THE MINISTRY OF NATURAL RESOURCES AT PETERBOROUGH THIS _____ DAY OF _____, 20____.</p> <p>FILE _____</p> <p align="center">_____ < NAME > SURVEYOR GENERAL</p>		<p align="center">PLAN _____</p> <p>I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND REGISTRY DIVISION OF _____ AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____.</p> <p align="right">_____ LAND REGISTRAR</p>																														
<p align="center">METRIC</p> <p>DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>		<p align="center">SCHEDULES</p> <p align="center">THE PARTS ENUMERATED HEREUNDER REFER TO AN EXISTING HIGHWAY ACQUIRED BY THE MINISTER OF TRANSPORTATION</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">PART</th> <th style="width: 15%;">AREA</th> <th style="width: 15%;">LOT</th> <th style="width: 15%;">CONCESSION</th> <th style="width: 45%;">LOCATION</th> </tr> </thead> <tbody> <tr> <td align="center">2</td> <td align="center">1708.3 m²</td> <td align="center" rowspan="3">PART OF 8</td> <td align="center" rowspan="3">2</td> <td align="center" rowspan="3">TOWNSHIP OF MUTRIE</td> </tr> <tr> <td align="center">3</td> <td align="center">27.2 m²</td> </tr> <tr> <td align="center">4</td> <td align="center">1232.3 m²</td> </tr> <tr> <td colspan="5">PARTS 2, 3, AND 4 – TRAVELLED ROAD</td> </tr> </tbody> </table> <p align="center">THE PART ENUMERATED HEREUNDER IS VESTED IN THE CROWN AND IS UNDER THE JURISDICTION AND CONTROL OF THE MINISTRY OF TRANSPORTATION</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">PART</th> <th style="width: 15%;">AREA</th> <th style="width: 15%;">LOT</th> <th style="width: 15%;">CONCESSION</th> <th style="width: 45%;">LOCATION</th> </tr> </thead> <tbody> <tr> <td align="center">1</td> <td align="center">2732.6 m²</td> <td align="center">PART OF 8</td> <td align="center">2</td> <td align="center">TOWNSHIP OF MUTRIE</td> </tr> </tbody> </table> <p><small>NOTE: BEARINGS ARE ASTRONOMIC, DERIVED FROM THE NORTHEASTERLY LIMIT OF PORTION 'A', PLAN 51413 (L.T.) (P-2226-14) BEING N54°41'30"W AND REFERRED TO THE MERIDIAN THROUGH THE LINE BETWEEN LOTS 6 AND 7, CONCESSION 2, TOWNSHIP OF MUTRIE (LONGITUDE 93°16'20" WEST).</small></p>		PART	AREA	LOT	CONCESSION	LOCATION	2	1708.3 m ²	PART OF 8	2	TOWNSHIP OF MUTRIE	3	27.2 m ²	4	1232.3 m ²	PARTS 2, 3, AND 4 – TRAVELLED ROAD					PART	AREA	LOT	CONCESSION	LOCATION	1	2732.6 m ²	PART OF 8	2	TOWNSHIP OF MUTRIE
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<p>ASSUMPTION PLAN AND CROWN LAND PLAN IN THE TOWNSHIP OF MUTRIE DISTRICT OF KENORA</p> <p align="center">IN ACCORDANCE WITH THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT</p> <p align="center">SCALE 1:1000</p> 																																
<p align="center">SURVEYOR'S CERTIFICATE</p> <p>I CERTIFY THAT:</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.</p> <p>2. THE SURVEY WAS COMPLETED ON THE _____ DAY OF _____, 20____.</p> </td> <td style="width: 50%; vertical-align: top;"> <p>THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE DEPOSITED WITH THE MINISTER OF NATURAL RESOURCES AND REGISTERED IN THE PROPER LAND REGISTRY OFFICE.</p> <p>DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.</p> </td> </tr> </table>				<p>1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.</p> <p>2. THE SURVEY WAS COMPLETED ON THE _____ DAY OF _____, 20____.</p>	<p>THIS PLAN IS PREPARED UNDER INSTRUCTIONS AND I HEREBY MAKE APPLICATION THAT IT BE DEPOSITED WITH THE MINISTER OF NATURAL RESOURCES AND REGISTERED IN THE PROPER LAND REGISTRY OFFICE.</p> <p>DATED AT ST. CATHARINES THIS _____ DAY OF _____, 20____.</p>																											
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		<small>GEOMATICS PLAN TECHNICIAN</small>																														
< MTO REGION >		P-2226-43.DWG																														

5.5 Amended Assumption Plan – Type “M”

An Amended Assumption Plan is prepared to correct errors, misstatements or omissions in Assumption Plans - types "K" and "L".

5.5.1 Statutory Authority

Section 9 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, is the authority for amending plans or descriptions that are prepared in accordance with the Act.

9. In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may cause to be registered in the proper land registry office a plan or description replacing or amending such original plan or description and signed by an Ontario Land Surveyor and one of,

- (a) the Minister;
- (b) the Deputy Minister;
- (c) an Assistant Deputy Minister of the Ministry; or
- (d) the Chief Surveyor of the Ministry,

and a plan registered under this section shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan or description to the extent that such plan or description is replaced or amended thereby.

5.5.2 Effect

When registered, an Amended Assumption Plan or an amended description is of the same force and effect and is in substitution for and replaces the original plan or description to the extent the original is amended.

5.5.3 Authorized Signatories

The *Public Transportation and Highway Improvement Act* requires that this plan be signed by an Ontario Land Surveyor and one of the following:

- the Minister;
- the Deputy Minister;
- an Assistant Deputy Minister of the Ministry; or
- the Chief Surveyor of the Ministry.

5.5.4 Plan Combination

An Amended Assumption Plan - type "M", may be combined with Crown Land Plan - type "E", Amended Crown Land Plan - type "F", Assumption Plan Replacing - type "K", and Assumption Plan - type "L".

5.5.5 Plan Requirements

- (a) AN EXPLANATORY NOTE INDICATING THE NATURE OF THE AMENDMENT AND A CLEARLY WORDED EXPLANATION OR REASON FOR THE AMENDMENT MUST APPEAR ADJACENT TO THE TITLE BLOCK ON ALL AMENDING PLANS.
- (b) The word "amended" must appear immediately after every distance, bearing or area amended by the plan.
- (c) An Amended Assumption Plan shall pertain only to those lands under the jurisdiction of the Ministry. Lands which were acquired, but which have since been disposed of by the Ministry, shall be shown on the amended plan by dashed lines. Correct bearings and distances shall also be shown on the limits of these lands as "Meas" and "Plan" (indicate source).
- (d) The plan shall contain a schedule, and where it is combined with another plan type, a separate schedule for each plan type and each registry division will be required.
- (e) If the original Assumption Plan was filed with Ministry of Natural Resources, the Amended Assumption Plan should also be filed likewise. The title block should include the appropriate certificate.

5.5.6 Operating Words

The operating words in the schedule will vary according to the circumstances, typical wording is as follows:

- (a) Amending an assumption Plan that used colour for identification:

THE PARTS ENUMERATED HEREUNDER REFER TO (A PORTION OF) A HIGHWAY SHOWN ON PLAN NO. 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

- (b) Amending an Assumption Plan that was accompanied by descriptions:

THE PARTS ENUMERATED HEREUNDER REFER TO (A PORTION OF) A HIGHWAY SHOWN ON PLAN NO. 46098 (P-3314-2) WITH ANNEXED DESCRIPTION(S) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN AND DESCRIPTION(S) ARE HEREBY AMENDED.

- (c) or, if the Plan and Description were assigned separate registration numbers:

THE PARTS ENUMERATED HEREUNDER REFER TO (A PORTION OF) A HIGHWAY SHOWN ON PLAN NO. 46098 (P-3312-2) AND DESCRIBED IN INSTRUMENT NO. _____ REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN AND DESCRIPTION(S) ARE HEREBY AMENDED.

- (d) Amending a Plan that used the PART system for identification;

THE PARTS ENUMERATED HEREUNDER REFER TO (A PORTION OF) A HIGHWAY SHOWN AS PARTS 11 AND 12, ON PLAN NO. 46098 (P-3314-2) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLAN IS HEREBY AMENDED.

- (e) Amending more than one Plan;

THE PARTS ENUMERATED HEREUNDER REFER TO (A PORTION OF) A HIGHWAY SHOWN ON PLANS NO. 46098 (P-3314-20), NO. 472122 (P-3314-16) AND NO. 56057 (P-3314-36) REGISTERED IN THE LAND REGISTRY OFFICE FOR THE _____ DIVISION OF _____ WHICH PLANS ARE HEREBY AMENDED.

Due to the varied terminology used in the past and different procedures followed in various Land Registry Offices from time to time, it is impossible to provide operating words for all situations. Therefore, the foregoing examples will have to be modified as required.

5.5.7 *Approval*

The decision to amend a plan must not be taken lightly. The Regional Geomatics Section will assess the situation in consultation with the Geomatics Office to determine if the problem can be resolved by using measurement comparisons (Plan and Meas), before the decision is made to prepare an amending plan.

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6 Designations

6.1 Designation Plan of a Proposed Highway – Type “N”

The purpose of this plan is to illustrate and form part of an Order-in-Council designating a proposed highway as the King's Highway, or as a controlled-access highway.

This type of plan is used when the proposed route does not follow the course of an existing road and may also be used when the Ministry does not have title to the lands along the proposed route. After title has been acquired and the road constructed, the final corridor should be designated by an Order in Council illustrated by a type “O” plan, and the existing proposed highway designation should be revoked if necessary.

6.1.1 Definitions

Designate – means to select or set apart for a duty or purpose.

The Lieutenant Governor in Council - the executive head of the Executive Council which is composed of all of the Cabinet Ministers under the chairmanship of the Premier who is President of the Council. The chief duty of the Executive Council is to administer the business affairs of the Province. Whenever the words "Lieutenant Governor in Council" appear in any Act of the Legislature, an Order in Council is required.

Order in Council – a subsidiary form of legislation. A document processed through the Executive Council and approved by the Lieutenant Governor to give force of law to administrative regulations and provisions drawn up by Government Ministries under authority of a Statute.

Propose – to form or declare a plan or intention. A proposed Highway therefore is a highway which the Minister has declared his intention to construct in the future.

Statutory Declaration – a written statement of facts which is signed and solemnly declared to be true before a notary public or a commissioner. A statutory declaration is made under the *Evidence Act* and a false declaration constitutes an offence which is punishable.

6.1.2 Statutory Authority

There is no statutory authority for the plan but the Order in Council is prepared in accordance with sections 7 or 36 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990.

7. (1) The Lieutenant Governor in Council may designate a highway or proposed highway as the King's Highway.

(2) The order in council designating a highway or proposed highway as the King's Highway shall be registered in the proper land registry office and any such order in council heretofore registered shall be deemed to have been required to be so registered.

36. (1) The Lieutenant Governor in Council may designate any,

(a) highway; or

(b) proposed highway,

as a controlled-access highway and every highway so designated shall be deemed to be part of the King's Highway and the provisions of this Act and the regulations that apply to the King's Highway apply with necessary modifications to such controlled-access highway.

(2) Any part of the King's Highway heretofore designated as a controlled-access highway under this Act or a predecessor thereof shall be deemed to have been designated in accordance with this section.

(3) The order in council designating a highway or proposed highway as a controlled-access highway shall be registered in the proper land registry office and any such order in council heretofore registered shall be deemed to have been required to be so registered.

6.1.3 *Effect*

The filing of the plan by itself has no effect. However, the Order in Council of which it forms a part, has the effect of designating the lands shown on the plan as the King's Highway or a controlled-access highway. The designation becomes effective on the date it is approved by the Lieutenant Governor in Council unless there is some specific provision in the Order about the effective date.

From the effective date of the Order, obligations are imposed upon adjoining owners as set out in the Act. The designation is similar to a zoning by-law. It places restrictions on the designated right-of-way and the adjacent lands. Further development of these lands is subject to a permit from the Minister.

6.1.4 *Authorized Signatories*

On the recommendations of the Legal Services Branch it is Ministry policy that the plan must be signed by an Ontario Land Surveyor.

6.1.5 *Plan Combination*

This plan may be combined with another jurisdictional plan depending on the jurisdictional action(s) of the corresponding Order in Council.

NOTE:

In the past, it was a common practice to include only one jurisdictional action in an Order in Council to satisfy one section of the *Public Transportation and Highway Improvement Act*. It may be more practical to combine jurisdictional actions (or carry out the authority of more than one section of the Act) under one Order in Council; thus we now have combination jurisdictional plans.

6.1.6 Plan Requirements

- (a) The plan shall be prepared from existing engineering plans.
- (b) The plan shall be drawn at a ratio scale of 1:2000 or 1:5000 depending on the base plan selected.
- (c) The plan shall show the width of corridor but no other measurements or monuments.
- (d) Only one PART number should be assigned if the highway is continuous and unbroken.
- (e) A small scale Key Plan must be shown.
- (f) The plan shall contain a schedule.

SCHEDULE		
THE PART ENUMERATED HEREUNDER REFERS TO A HIGHWAY DESIGNATED BY THE LIEUTENANT GOVERNOR IN COUNCIL AS A CONTROLLED-ACCESS HIGHWAY PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.		
PART	LOT	CONCESSION
1	PARTS OF 30, 31 AND 32	1
	PARTS OF 29, 30, 31 AND 32	2
	PARTS OF 27, 28 AND 29	3

- (g) The schedule shall indicate whether it is "all of" or "part of" the lot that is affected by the designation and also take into account any fractional portions of the lot that may be abstracted separately.

6.1.7 Approval

The "Request for Designation" is the authority for the preparation of the plan. A print of the plan must be sent to the Regional Planning and Design Section for approval before final processing.

6.1.8 *Revoking Existing Designation*

When a designation of a Proposed Highway is replacing an existing designation, or one substantially following the same route, it may be desirable to remove the existing designation or leave it in place. Consideration should be made that, while Proposed Highway designations protect the corridor, they also place restrictions on the subject and adjacent land. Removing the existing designation will result in only the lands subject to the new designation being affected. Leaving the existing designation in place will affect the combined lands of both designations. In determining the preferred option, advice and direction from the appropriate MTO sections should be obtained.

SCHEDULE (LAND TITLES)		
THE PART ENUMERATED HEREUNDER REFERS TO A HIGHWAY DESIGNATED BY THE LIEUTENANT GOVERNOR IN COUNCIL AS A CONTROLLED-ACCESS HIGHWAY PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.		
PART	LOT	CONCESSION
1	PARTS OF 1, 2 AND 3	5
	PARTS OF 4, 5 AND 6	4
	PARTS OF 7, 8 AND 9	3
	PARTS OF 8, 12, AND 13	2
LOCATION		
PART OF THE BED OF THE WOLF RIVER LYING WITHIN LOT 12, CONCESSION 2		
SCHEDULE (REGISTRY ACT)		
THE PART ENUMERATED HEREUNDER REFERS TO A HIGHWAY DESIGNATED BY THE LIEUTENANT GOVERNOR IN COUNCIL AS A CONTROLLED-ACCESS HIGHWAY PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.		
PART	LOT	CONCESSION
2	PARTS OF 9, 10 AND 11	2

RECORDING CERTIFICATE				
I HEREBY CERTIFY THAT THIS PLAN HAS BEEN FILED WITH THE _____ IN THE _____ REGION OF THE MINISTRY OF TRANSPORTATION AT _____ ON THE _____ DAY OF _____, 20____				
_____ < NAME >				
METRIC				
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048				
<p align="center">DESIGNATION PLAN OF A PROPOSED HIGHWAY</p> <p align="center">AS A</p> <p align="center">CONTROLLED-ACCESS HIGHWAY</p> <p align="center">IN THE TOWNSHIP OF</p> <p align="center">DORION</p> <p align="center">DISTRICT OF THUNDER BAY</p> <p align="center">SCALE 1: 4000</p> <p align="center"> </p> <p align="center"> _____ DATE _____ <NAME> ONTARIO LAND SURVEYOR </p> <p>MINISTRY OF TRANSPORTATION</p> <p align="center">M.T.O. USE ONLY</p> <p>PARTS 1 AND 2 WERE DESIGNATED AS CONTROLLED-ACCESS HIGHWAY BY ORDER IN COUNCIL NUMBER _____ EFFECTIVE _____ AND REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF THUNDER BAY ON _____, 20____ AS NUMBER _____ AND REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF THUNDER BAY ON _____, 20____ AS NUMBER _____</p> <table border="1"> <tr> <td> HWY 11/17 INDEXED UNDER TOWNSHIP OF DORION SUPERVISOR </td> <td> W.O. 98-6-7006-C PLAN AGREES WITH INSTRUCTIONS AND APPROVALS _____ <NAME> _____ < TITLE > _____ _____ SUPERVISOR </td> <td> PROPOSED DESIGNATION PLAN TYPE 'N' P-2986-99 _____ GEOMATICS PLAN TECHNICIAN </td> </tr> </table> <p align="center">< MTO REGION > P-2986-99.DWG</p>		HWY 11/17 INDEXED UNDER TOWNSHIP OF DORION SUPERVISOR	W.O. 98-6-7006-C PLAN AGREES WITH INSTRUCTIONS AND APPROVALS _____ <NAME> _____ < TITLE > _____ _____ SUPERVISOR	PROPOSED DESIGNATION PLAN TYPE 'N' P-2986-99 _____ GEOMATICS PLAN TECHNICIAN
HWY 11/17 INDEXED UNDER TOWNSHIP OF DORION SUPERVISOR	W.O. 98-6-7006-C PLAN AGREES WITH INSTRUCTIONS AND APPROVALS _____ <NAME> _____ < TITLE > _____ _____ SUPERVISOR	PROPOSED DESIGNATION PLAN TYPE 'N' P-2986-99 _____ GEOMATICS PLAN TECHNICIAN		

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6.2 Designation Plan – Type “O”

The purpose of this plan is to illustrate and form part of an Order in Council designating a highway as;

- a Controlled-Access Highway;
- the King's Highway;
- a Secondary Highway;
- a Tertiary Road;
- a Resource Road; and

This type of plan is used after the existing road has been acquired and should include any widenings and deviations that were acquired for the purpose of re-constructing and improving the highway.

6.2.1 Definitions

Designate – means to select or set apart for a duty or purpose.

The Lieutenant Governor – the executive head of the Executive Council which is composed of all the Cabinet Ministers under the chairmanship of the Premier who is President of the Council. The chief duty of the Executive Council is to administer the business affairs of the Province. Whenever the words "Lieutenant Governor in Council" appear in any Act or the legislature, an Order in Council is required.

Order in Council – a subsidiary form of legislation. A document processed through the Executive Council and approved by the Lieutenant Governor to give force of law to administrative regulations and provisions drawn up by Government Ministries under authority of a Statute.

6.2.2 Statutory Authority

There is no statutory authority for this plan but the Order in Council is prepared in accordance with sections 7, 36, 40, 41(1) or 42(1) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990.

7. (1) The Lieutenant Governor in Council may designate a highway or proposed highway as the King's Highway.

(2) The order in council designating a highway or proposed highway as the King's Highway shall be registered in the proper land registry office and any such order in council heretofore registered shall be deemed to have been required to be so registered.

36. (1) The Lieutenant Governor in Council may designate any,

(a) highway; or

(b) proposed highway, as a controlled-access highway and every highway so designated shall be deemed to be part of the King's Highway and the provisions of this Act and the regulations that apply to the King's Highway apply with necessary modifications to such controlled-access highway.

(2) Any part of the King's Highway heretofore designated as a controlled-access highway under this Act or a predecessor thereof shall be deemed to have been designated in accordance with this section.

(3) The order in council designating a highway or proposed highway as a controlled-access highway shall be registered in the proper land registry office and any such order in council heretofore registered shall be deemed to have been required to be so registered.

(4) A designation under this section is not a regulation within the meaning of the Regulations Act.

40. (1) The Lieutenant Governor in Council may designate any highway as a secondary highway and thereupon Part I and all the other provisions of this Act and the regulations that apply to the King's Highway apply with necessary modifications to such secondary highway.

41. (1) The Lieutenant Governor in Council may designate an existing road that is in whole or in part in territory without municipal organization as a tertiary road, and thereupon the provisions of this Act and the regulations that apply to the King's Highway, except sections 33 and 34, apply with necessary modifications to such tertiary road.

42. (1) The Lieutenant Governor in Council may designate a tertiary road as a resource road.

6.2.3 *Effect*

The filing of the plan in itself has no effect. However, the Order in Council of which it forms a part, has the effect of designating the lands shown on the plan as the King's Highway, a Secondary Highway, etc. The designation becomes effective on the date it is approved by the Lieutenant Governor in Council unless there is some specific provision in the Order about the effective date.

From the effective date of the Order, obligations are imposed upon adjoining owners as set out in the Act. Similar to a zoning by-law, this places restrictions on the designated Right-of-Way and the adjacent lands making their use for further development, subject to a permit from the Minister.

6.2.4 *Authorized Signatories*

On the recommendation of the Legal Services Branch it is Ministry policy that the plan must be signed by an Ontario Land Surveyor.

6.2.5 Plan Combination

This plan may be combined with another jurisdictional plan depending on the jurisdictional action(s) of the corresponding Order in Council.

NOTE: In the past, it was a common practice to include only one jurisdictional action in an Order in Council to satisfy one section of the *Public Transportation and Highway Improvement Act*. It is more practical to combine jurisdictional action (or carry out the authority of more than one section of the Act) under one Order in Council; thus we now have combination jurisdictional plans.

6.2.6 Plan Requirements

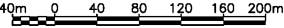
- (a) The plan shall be prepared from existing legal survey plans.
- (b) The plan shall be drawn at a ratio scale of 1:2000. It may be drawn at a greater or lesser ratio scale at the supervisor's discretion.
- (c) The plan shall indicate the EC's and BC's. Monumentation shall not be shown. Dimensions other than the width of right-of-way shall not be shown.
- (d) Only one PART number shall be assigned if the right-of-way is continuous and unbroken.
- (e) A small scale Key Plan shall be shown.
- (f) If feasible, the plan shall contain the highway across the entire township.

NOTE: For the purpose of simplicity and record keeping it is preferable to have one designation Order in Council per highway per township.

- (g) The heavy outline defining the designation shall be drawn to include all Ministry lands fenced and used for the purpose of the highway. At intersecting roads the heavy line shall continue across on the normal widened limit and not from apex to apex of daylighting triangles.
- (h) Truck inspection stations shall be included in the designation.
- (i) One foot reserves, severances, and easements for drainage, creek diversions, or retaining wall maintenance, shall not be included in the designation.
- (j) The plan shall contain a separate schedule for each Land Titles or Registry Division.
- (k) The schedule shall indicate whether it is "all of" or "part of" the lot that is affected by the designation and also take into account any fractional portions of the lot that may be abstracted separately.

6.2.7 Approval

A print of the plan must be sent to the Regional Planning and Design Section for approval before final processing.

<p style="text-align: center;">METRIC</p> <p style="text-align: center;">DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>	<p style="text-align: center;">RECORDING CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN HAS BEEN FILED WITH _____, _____ REGION, OF THE MINISTRY OF TRANSPORTATION AT _____ ON THE _____ DAY OF _____, 20____.</p> <p style="text-align: right;">_____ <NAME></p>						
<p>SCHEDULE</p> <p>THE PART ENUMERATED HEREUNDER REFERS TO A PORTION OF HIGHWAY DESIGNATED BY THE LIEUTENANT GOVERNOR-IN-COUNCIL AS A CONTROLLED ACCESS HIGHWAY PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 25%;">PART</th> <th style="width: 25%;">LOT</th> <th style="width: 50%;">CONCESSION</th> </tr> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">22</td> <td style="text-align: center;">12</td> </tr> </table>		PART	LOT	CONCESSION	1	22	12
PART	LOT	CONCESSION					
1	22	12					
<p>DESIGNATION PLAN OF PART OF A HIGHWAY GEOGRAPHIC TOWNSHIP OF SETH NOW IN THE TOWN OF BETHANY DISTRICT OF LAMONT</p> <p style="text-align: center;">SCALE 1 : 4000</p>  <p style="text-align: center;">----- DATE -----</p> <p style="text-align: right;">-----<NAME>----- ONTARIO LAND SURVEYOR</p>							
<p>MINISTRY OF TRANSPORTATION</p>							
<p>MTO USE ONLY</p>							
<p>PART 1 WAS DESIGNATED AS CONTROLLED ACCESS HIGHWAY BY ORDER-IN-COUNCIL _____ EFFECTIVE _____ 20____ AND REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF SWANSEA ON _____ 20____ AS NUMBER _____</p>							
<p>HWY 87</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; text-align: center;"> <p>W.O. 9999-88-77</p> <p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p> </td> <td style="width: 60%; text-align: center;"> <p>DESIGNATION PLAN TYPE 'O'</p> <p style="font-size: 1.2em;">P-2468-10</p> </td> </tr> <tr> <td style="text-align: center;"> <p>INDEXED UNDER TOWNSHIP OF SETH</p> </td> <td style="text-align: center;"> <p>_____ <NAME></p> </td> </tr> <tr> <td style="text-align: center;"> <p>_____ SUPERVISOR</p> </td> <td style="text-align: center;"> <p>_____ <TITLE></p> </td> </tr> </table>	<p>W.O. 9999-88-77</p> <p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p>	<p>DESIGNATION PLAN TYPE 'O'</p> <p style="font-size: 1.2em;">P-2468-10</p>	<p>INDEXED UNDER TOWNSHIP OF SETH</p>	<p>_____ <NAME></p>	<p>_____ SUPERVISOR</p>	<p>_____ <TITLE></p>
<p>W.O. 9999-88-77</p> <p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p>	<p>DESIGNATION PLAN TYPE 'O'</p> <p style="font-size: 1.2em;">P-2468-10</p>						
<p>INDEXED UNDER TOWNSHIP OF SETH</p>	<p>_____ <NAME></p>						
<p>_____ SUPERVISOR</p>	<p>_____ <TITLE></p>						
<p><MTO REGION> P-2468-10.DWG</p>							

7 Divestings

7.1 Plan to Remove Jurisdiction and Control – Type “Q”

The purpose of this plan is to illustrate and form part of an Order in Council whereby the Ministry divests itself of a section of highway no longer required in territory without municipal organization.

NOTE: Prior to 1973, this plan type was known as a Reversion Plan. In 1973 an amendment to the *Public Transportation and Highway Improvement Act* deleted the reference to Reversion and added the method for dealing with highways in territory without municipal organization, in ss 29(6) of the Act. Prior to 2009, Type “Q” plans were known as a “Plan of a Highway”.

7.1.1 Definitions

The Lieutenant Governor – the executive head of the Executive Council which is composed of all of the Cabinet Ministers under the chairmanship of the Premier who is President of the Council. The chief duty of the Executive Council is to administer the business affairs of the Province. Whenever the words "Lieutenant Governor in Council" appear in any Act of the Legislature an Order in Council is required.

Order in Council – a subsidiary form of legislation. A document processed through the Executive Council and approved by the Lieutenant Governor to give force of law to administrative regulations and provisions drawn up by Government Ministries under the authority of a Statute.

7.1.2 Statutory Authority

There is no statutory authority for the plan, but the Order in Council is prepared in accordance with subsection 29(6) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990.

29. (6) Where, in territory without municipal organization, an alternative route has been provided for the King's Highway or any other highway under the jurisdiction and control of the Ministry, or where for any other reason it is considered advisable that the highway or any part thereof should no longer be under the jurisdiction and control of the Ministry, the Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway under the jurisdiction and control of the Ministry, be no longer under the jurisdiction and control of the Ministry and the Crown shall not be liable for any damages caused by default in maintenance of the highway or for any damage sustained by any person using the highway on and after the day named by the Lieutenant Governor in Council.

7.1.3 Effect

The filing of the plan in itself has no effect. However, the Order in Council of which it forms a part has the effect of removing from the Ministry the jurisdiction and control of the highway or part as shown on the plan. The Order in Council becomes effective on the date it is approved by the

Lieutenant Governor in Council unless there is some specific provision in the order about the effective date.

7.1.4 *Authorized Signatories*

On the recommendation of the Legal Services Branch, it is Ministry policy to have the plan signed by an Ontario Land Surveyor.

7.1.5 *Plan Combination*

This plan may be combined with another jurisdictional plan depending on the jurisdictional action(s) of the corresponding Order in Council.

7.1.6 *Plan Requirements*

- (a) The plan shall be prepared from existing legal survey plans.
- (b) The plan should be drawn at a ratio scale of 1:2000, but may be drawn at a greater or lesser ratio scale at MTO discretion.
- (c) Monumentation shall not be shown. Dimensions other than the width of the corridor shall not be shown.
- (d) A Key Plan must be shown.
- (e) The plan shall contain a schedule:

SCHEDULE		
THE PARTS ENUMERATED HEREUNDER REFER TO PORTIONS OF HIGHWAY WHICH THE LIEUTENANT GOVERNOR IN COUNCIL HAS DIRECTED TO BE NO LONGER UNDER THE JURISDICTION AND CONTROL OF THE MINISTRY OF TRANSPORTATION, PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.		
PART	LOT	CONCESSION
1	PARTS OF 5 AND 6	2
2	PART OF LOCATION H.W. 8	
	PART OF BLOCK "E" AND "O" PLAN M - 193	

7.1.7 *Approval*

The properly authorized Request is the authority for preparing the plan and a print of the plan must be sent to the Regional Planning and Design Section and the District Office for approval before final processing.


7.1.8 Supplemental Information

In general, subsection 29(6) of the Act is used when an alternative highway route has been provided or the highway should no longer be under the jurisdiction and control of the Minister. When this action is not taken, the Ministry may:

- Re-designate the highway as either a Secondary Highway or a Tertiary Road, or
- Close the road legally and physically, and either dispose of the land to adjoining owners, or abandon the land to the Ministry of Natural Resources.

The following are examples of appropriate applications of subsection 29(6) of the *Public Transportation and Highway Improvement Act*:

- Where the corridor may be required as a public road and used as a location for one or more public utilities already in existence;
- Where the road provides a means of access to private property, and it is not possible to close it and create a private road;
- Where potential development of the property warrants the retention of a public road access for future use; and
- Where the road is to be designated under the *Local Roads Board Act* or the *Statute Labour Act*.

<p style="text-align: center;">METRIC</p> <p style="text-align: center;">DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>	<p style="text-align: center;">RECORDING CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN HAS BEEN FILED WITH THE _____ _____, REGION, OF THE MINISTRY OF TRANSPORTATION AT _____, ON THE _____ DAY OF _____, 20____.</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">< NAME ></p>						
<p>SCHEDULE</p> <p>THE PARTS ENUMERATED HEREUNDER REFER TO PORTIONS OF HIGHWAY WHICH THE LIEUTENANT GOVERNOR-IN-COUNCIL HAS DIRECTED TO BE NO LONGER UNDER THE JURISDICTION AND CONTROL OF THE MINISTRY OF TRANSPORTATION PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.</p>							
<p>PART</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%; text-align: center;">LOCATION</th> </tr> <tr> <td style="text-align: center;">1</td> </tr> <tr> <td style="text-align: center;">2</td> </tr> <tr> <td style="text-align: center;">3</td> </tr> </table>	LOCATION	1	2	3		
LOCATION							
1							
2							
3							
<p style="text-align: center;">PART OF THE TOWNSHIP OF YESNO (UNSUBDIVIDED)</p>							
<p style="text-align: center;">PART OF THE TOWNSHIP OF WIGGINS (UNSUBDIVIDED)</p>							
<p>LEGEND</p> <p>L.T. DENOTES LAND TITLES</p>							
<p>PLAN REMOVING JURISDICTION AND CONTROL OF PART OF THE KING'S HIGHWAY IN THE TOWNSHIPS OF WIGGINS AND YESNO DISTRICT OF THUNDER BAY</p> <p>SCALE 1: 4000</p> <div style="text-align: center;">  </div> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p>_____</p> <p>DATE</p> </div> <div style="text-align: center;"> <p>_____</p> <p><NAME> ONTARIO LAND SURVEYOR</p> </div> </div>							
<p>MINISTRY OF TRANSPORTATION</p>							
<p>MTO USE ONLY</p>							
<p>PARTS 1, 2 AND 3 ARE NO LONGER UNDER THE JURISDICTION AND CONTROL OF THE MINISTRY OF TRANSPORTATION BY ORDER IN COUNCIL NUMBER _____ EFFECTIVE _____ AND REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF THUNDER BAY ON _____, 20____ AS NUMBER _____</p>							
<p style="text-align: center;">HWY 17</p> <p style="text-align: center;">INDEXED UNDER TOWNSHIP OF WIGGINS</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;"> <p>W.O. 2005-6-7016</p> <p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p> </td> <td style="width: 50%; text-align: center;"> <p>REMOVAL OF JURISDICTION & CONTROL PLAN TYPE 'Q'</p> <p>P-2161-00</p> </td> </tr> <tr> <td style="text-align: center;"> <p>_____</p> <p><NAME></p> </td> <td style="text-align: center;"> <p>_____</p> <p><TITLE></p> </td> </tr> <tr> <td style="text-align: center;"> <p>_____ SUPERVISOR</p> </td> <td style="text-align: center;"> <p>_____ GEOMATICS PLAN TECHNICIAN</p> </td> </tr> </table>	<p>W.O. 2005-6-7016</p> <p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p>	<p>REMOVAL OF JURISDICTION & CONTROL PLAN TYPE 'Q'</p> <p>P-2161-00</p>	<p>_____</p> <p><NAME></p>	<p>_____</p> <p><TITLE></p>	<p>_____ SUPERVISOR</p>	<p>_____ GEOMATICS PLAN TECHNICIAN</p>
<p>W.O. 2005-6-7016</p> <p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p>	<p>REMOVAL OF JURISDICTION & CONTROL PLAN TYPE 'Q'</p> <p>P-2161-00</p>						
<p>_____</p> <p><NAME></p>	<p>_____</p> <p><TITLE></p>						
<p>_____ SUPERVISOR</p>	<p>_____ GEOMATICS PLAN TECHNICIAN</p>						
<p><MTO REGION></p>							
<p>P-2161-00.DWG</p>							

7.2 Transfer Plan – Type “R”

The purpose of this type of plan is to illustrate and form part of an Order in Council transferring a highway, or part of a highway that is under the jurisdiction and control of the Ministry, to any municipality in which it is situate.

7.2.1 Definitions

The Lieutenant Governor - the executive head of the Executive Council which is composed of all the Cabinet Ministers under the chairmanship of the Premier who is President of the Council. The chief duty of the Executive Council is to administer the business affairs of the Province. Whenever the words "Lieutenant Governor in Council" appear in any Act of the Legislature, an Order in Council is required.

Order in Council - a subsidiary form of legislation. A document processed through the Executive Council and approved by the Lieutenant Governor to give force of law to administrative regulations and provisions drawn up by Government Ministries under authority of a Statute.

Municipality - in this section, "municipality" includes county, district municipality, regional municipality, town, city, village, township etc. and a commission that is a road authority appointed under an Act of the Legislature.

7.2.2 Statutory Authority

There is no specific statutory authority for the plan, but the Order in Council is prepared in accordance with subsection 29(4) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990.

Transfer to municipality or road authority

- (4) The Lieutenant Governor in Council may direct the transfer of any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Ministry to any municipality in which it is situate and,
- (a) it vests in and is under the jurisdiction and control of the municipality on and after the day named by the Lieutenant Governor in Council;
 - (b) it shall for all purposes be deemed to be part of the road system of the municipality;
 - (c) any agreements made or permits granted by the Minister in relation thereto shall continue in force as though made or granted by the municipality; and
 - (d) all rights, privileges and benefits conferred upon or retained by the Ministry or the Crown in any agreement referred to in clause (c) shall enure to the benefit of and be binding upon the municipality.

Despite clause 29(4)(a), land designated but not owned (i.e. railway crossings where the land was not acquired) will not vest with the municipality.

7.2.3 *Effect*

The plan in itself has no effect. However, the Order in Council has the effect of transferring the highway, or part of a highway to a municipality. On and after the effective date of the Order in Council the transferred highway vests in and is under the jurisdiction and control of the municipality. The Order in Council becomes effective on the date it is approved by the Lieutenant Governor in Council, unless there is some specific provision in the Order about the effective date. According to Subsection 29(7) of the Act, the designation of the King's Highway is revoked upon closing or transferring it to the municipality. Upon transfer, a controlled-access highway retains existing permit controls for a period of up to six months according to Subsection 29(5) of the Act.

NOTE: There is no statutory authority for the registration of a plan or Order in Council of this nature. The Ministry deems it advisable that plans and Orders in Council of this nature be registered, as they illustrate the disposition of public highways. The municipality to which the highway is transferred is named in the Order in Council and in the schedule on the plan.

7.2.4 *Authorized Signatories*

An Ontario Land Surveyor must sign this plan in accordance with Ministry policy.

7.2.5 *Plan Combination*

This plan may be combined with another jurisdictional plan depending on the jurisdictional action(s) of the corresponding Order in Council.

NOTE: In the past, it was a common practice to include only one jurisdictional action in an Order in Council to satisfy one section of the *Public Transportation and Highway Improvement Act*. It is more practical to combine jurisdictional action (or carry out the authority of more than one section of the Act) under one Order in Council; thus we now have combination jurisdictional plans.

7.2.6 *Plan Requirements*

The plan shall be prepared in accordance with the Legal Plans Standards, the sample title blocks and schedules at the end of this section and the following instructions:

- (a) The plan shall be drawn at a ratio scale of 1:2000. It may be drawn at a greater or lesser ratio scale at the Supervisor's discretion.
- (b) A small scale key plan shall be shown.
- (c) Where field inspection indicates that the right-of-way has been surveyed and the monumentation meets present standards, the Transfer Plan shall indicate the plan number used to define the limits. The Ministry shall make available to the municipality, translucent duplicates of the acquisition and Reference plans defining the limits of the lands being transferred.
- (d) If extensive field work and monumentation are required, then a Reference Plan---plan type "U"---shall be prepared to illustrate the Order in Council.

- (e) Reserves (one foot or metric equivalent), severances and special-use properties such as patrol yards or service centres shall not be included in the transfer but shall be conveyed by deed.
- (f) Limited interests such as drainage easements, retaining wall easements etc., shall be illustrated by separate PARTS with a separate schedule for each interest. The operating clause of the schedule shall be taken from the document or plan that acquired the interest for the Ministry. Below is an example of an operating clause for a transfer plan schedule taken from the original grant of easement:

THE PART ENUMERATED HEREUNDER REFERS TO A LIMITED INTEREST TO CONSTRUCT, MAINTAIN, USE AND KEEP CLEAR OF OBSTRUCTION, A DRAINAGE DITCH, AS ACQUIRED BY PLAN P-000-00 REGISTERED AS NO. 0000, AND IS TRANSFERRED TO THE CORPORATION OF THE TOWNSHIP OF STANHOPE.

No reference to the limited interest shall be made in the body of the Order in Council unless the limited interest forms part of the operating highway as defined in section 1 of the *Public Transportation and Highway Improvement Act*. If descriptions of the transferred lands or the Property Identifiers are set out in the Document General, the limited interest shall also be included in the Document General.

- (g) Property surplus to the right-of-way, such as the residual lands of a "buy out" or severances, etc. shall not be included when the highway is disposed of. However this does not preclude the inclusion of minor slivers of land, or unused portions of former right-of-way falling within a fenced limit, which, if not included with the transfer, would land lock the adjoining properties.
- (h) Lands that abut highways or municipal roads and are used for the purpose of facilitating the construction of structures such as overpasses or improvements to intersections shall be deemed to be part of the King's Highway and are to be transferred by Order in Council to the municipality.
- (i) The outer limits of daylighting triangles to be included in the transfer shall be shown in heavy outline. The heavy outline shall continue across the intersecting road on the normal widened limit of the highway and not from apex to apex of the triangles.
- (j) Only the plan numbers for plans which define outside limits of the highway being transferred are to be shown.
- (k) The plan shall contain separate schedules for each division of the Land Registry Office.

SCHEDULE		
THE PART ENUMERATED HEREUNDER REFERS TO A PORTION OF HIGHWAY TRANSFERRED TO THE CORPORATION OF THE TOWNSHIP OF STANHOPE BY THE LIEUTENANT GOVERNOR IN COUNCIL, PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.		
PART	LOT	CONCESSION
1	PART OF 12 AND PART OF 13	CONCESSION 11
	PART OF ORIGINAL SHORE ROAD ALLOWANCE ALONG THE SHORE OF CARLING LAKE IN FRONT OF LOT 13, CONCESSION 2	

- (l) If the road being transferred forms a boundary between two municipalities, then the portion should be divided so that each part may be transferred to the municipality in which it is located. It is no longer Ministry practice to transfer portions jointly to more than one municipality.
- (m) The receiving municipality shall be identified by full corporate name (Corporation of the City of St. Catharines, Corporation of the United Counties of Prescott and Russell etc.) in the Order in Council, plan schedules, MTO use only area and transferee area of the Document General. In the description area of the Document General and the main title block of the plan 'Corporation of' will not be used.
- (n) Crown lands acquired for highway purposes and included within the constructed right-of-way may be transferred to the municipality. (This includes "land under water".) Crown lands not forming part of the highway should be returned to the Ministry of Natural Resources if they will accept the lands.
- (o) Undesignated land should not be included in the transfer unless there is some feature such as pavement, fencing, ditching, occupation, etc. to verify that the land is used for road purposes. On transfers which do include undesignated lands, the Order in Council will normally include a designation paragraph designating the land in question before the transfer paragraph.

7.2.7 *Approval*

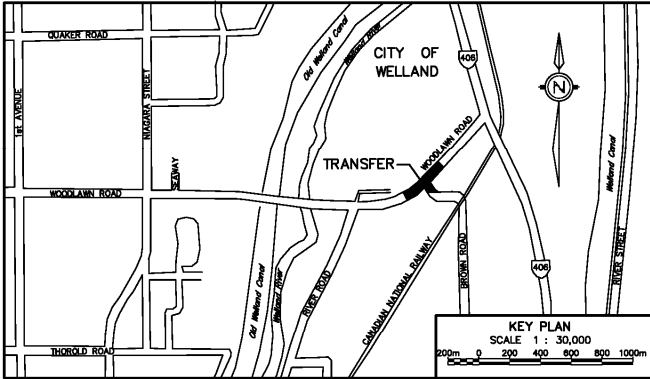
The "Request for Transfer" is the authority for the preparation of the plan and a print of the plan must be sent to the Regional Planning and Design Section or the District Office for approval before final processing.

7.2.8 *Special Conditions*

When a Transfer Plan is prepared, Ministry files shall be checked to ensure that every parcel of land being disposed of has been properly acquired (payment made). If payment has not been completed, the Ministry's future intention regarding the property should be determined.

If there is any doubt about the ownership or the need to retain a piece of land for road purposes it should be left off the Transfer Plan. Property of this nature can always be deeded to the municipality at a later date after any problems have been resolved.

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048		RECORDING CERTIFICATE I HEREBY CERTIFY THAT THIS PLAN HAS BEEN FILED WITH THE GEOMATICS SECTION, CENTRAL REGION OF THE MINISTRY OF TRANSPORTATION AT TORONTO ON THE _____ DAY OF _____, 2008 _____ < NAME >	
SCHEDULE THE PART ENUMERATED HEREUNDER REFERS TO A PORTION OF HIGHWAY TRANSFERRED TO THE REGIONAL MUNICIPALITY OF NIAGARA BY THE LIEUTENANT GOVERNOR IN COUNCIL PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.			
PART	PROPERTY IDENTIFIER	LOCATION	
1	PART OF 64423-0157 (LT)	PART OF LOT 21, CONCESSION 2 (PART OF WOODLAWN ROAD), GEOGRAPHIC TOWNSHIP OF CROWLAND (CITY OF WELLAND)	
SCHEDULE THE PART ENUMERATED HEREUNDER REFERS TO A PORTION OF HIGHWAY TRANSFERRED TO THE CORPORATION OF THE CITY OF WELLAND BY THE LIEUTENANT GOVERNOR IN COUNCIL PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.			
PART	PROPERTY IDENTIFIER	LOCATION	
2	PART OF 64423-0157 (LT)	PART OF LOT 21, CONCESSION 2 (PART OF BROWN ROAD), GEOGRAPHIC TOWNSHIP OF CROWLAND (CITY OF WELLAND)	



KEY PLAN
SCALE 1 : 30,000
200m 0 200 400 600 800 1000m

TRANSFER PLAN
OF PART OF A HIGHWAY
IN THE CITY OF
WELLAND
REGIONAL MUNICIPALITY OF NIAGARA

SCALE 1 : 2000
20m 0 20 40 60 80 100m

DATE _____		<OLS NAME> ONTARIO LAND SURVEYOR	
MINISTRY OF TRANSPORTATION			
MTO USE ONLY			
PART 1 WAS TRANSFERRED TO THE REGIONAL MUNICIPALITY OF NIAGARA AND PART 2 WAS TRANSFERRED TO THE CORPORATION OF THE CITY OF WELLAND BY ORDER IN COUNCIL OC-_____ EFFECTIVE _____ AND REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF NIAGARA SOUTH ON _____ AS NUMBER _____			
HWY 406 INDEXED UNDER TWP. OF CROWLAND	WP 123-45-67 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS _____ <NAME> _____ <TITLE>		TRANSFER PLAN TYPE 'R' P-5064-0000
SUPERVISOR _____		GEOMATICS PLAN TECHNICIAN _____	

< MTO REGION >
P-5064-0000.dwg

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8 Miscellaneous

8.1 Road Closing Plan – Type “S”

The purpose of this type of plan is to illustrate and form part of an Order in Council closing a highway or part of a highway that is under the jurisdiction and control of the Ministry. Once a public highway has been lawfully established, it cannot be extinguished as such except by statute or authority derived from a statute. The act of extinguishing the rights of the public to use the highway is known as closing.

8.1.1 Definitions

The Lieutenant Governor – the executive head of the Executive Council which is composed of all of the Cabinet Ministers under the chairmanship of the Premier who is President of the Council. The chief duty of the Executive Council is to administer the business affairs of the Province. Whenever the words "Lieutenant Governor in Council" appear in any Act of the Legislature, an Order in Council is required.

Order in Council – a subsidiary form of legislation. A document processed through the Executive Council and approved by the Lieutenant Governor to give force of law to administrative regulations and provisions drawn up by Government Ministries under the authority of a statute.

8.1.2 Statutory Authority

There is no statutory authority for this plan, but the Order in Council is prepared in accordance with subsection 29 (2) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990.

29. (2) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Ministry shall be closed.

8.1.3 Effect

The plan in itself has no effect. However, the Order in Council has the effect of closing the highway. The highway shown on the plan ceases to be a public highway on and after the effective date of the Order in Council and becomes land owned by the Ministry which may be retained as undesignated land to be used for other than road purposes, or disposed of by sale or lease. The Order in Council becomes effective on the date it is approved by the Lieutenant Governor in Council unless there is some specific provision in the Order about the effective date.

8.1.4 Authorized Signatories

On the recommendation of the Legal Services Branch, it is Ministry policy that the plan must be signed by an Ontario Land Surveyor.

8.1.5 Plan Combination

This plan may be combined with another jurisdictional plan depending on the jurisdictional action(s) of the corresponding Order in Council.

NOTE 1. In the past, it was a common practice to include only one jurisdictional action in an Order in Council to satisfy one section of the *Public Transportation and Highway Improvement Act*. It is more practical to combine jurisdictional action (or carry out the authority of more than one section of the Act) under one Order in Council; thus we now have combination jurisdictional plans.

NOTE 2. If part of a highway to be closed is also part of an original road allowance or part of another public highway, it generally should not be closed. Approval should be obtained to either transfer it to the municipality under subsection 29(4) of the *Public Transportation and Highway Improvement Act* or declare it to be no longer under the jurisdiction and control of the Ministry under subsection 29(6) of the Act.

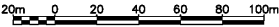
8.1.6 Plan Requirements

- (a) The plan shall be prepared from the existing "P" plans.
- (b) The plan shall be drawn at a ratio scale of 1:2000. It may be drawn at a greater or lesser ratio scale at MTO discretion.
- (c) Monuments shall not be shown. Dimensions other than the width of right-of-way shall not be shown.
- (d) If extensive field work and monumentation are required or if a "Property Sale" is involved, then a Reference Plan-type "U" shall be prepared to illustrate the Order in Council.
- (e) A small scale Key Plan shall be shown.
- (f) The plan shall contain a schedule:

SCHEDULE		
THE PART ENUMERATED HEREUNDER REFERS TO A PORTION OF HIGHWAY CLOSED BY THE LIEUTENANT GOVERNOR IN COUNCIL PURSUANT TO THE PROVISIONS OF THE <i>PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT</i> .		
PART	LOT	LOCATION
1	PART OF 10 AND PART 11	CONCESSION 3 TOWNSHIP OF BALFOUR

8.1.7 Approval

The "Request for Closing" is the authority for the preparation of the plan and a print of the plan must be sent to the Regional Planning and Design Section for approval before final processing.

		RECORDING CERTIFICATE I HEREBY CERTIFY THAT THIS PLAN HAS BEEN FILED WITH THE GEOMATICS SECTION, CENTRAL REGION, OF THE MINISTRY OF TRANSPORTATION AT TORONTO ON THE _____ DAY OF _____, 200____ <div style="text-align: right;">< NAME ></div>	
SCHEDULE			
THE PART ENUMERATED HEREUNDER REFERS TO A PORTION OF HIGHWAY CLOSED BY THE LIEUTENANT GOVERNOR IN COUNCIL PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT.			
PART	PROPERTY IDENTIFIER	LOCATION	
1	PART OF 13371-0562 (LT)	PART OF LOT 21, CONCESSION 2, NORTH OF DUNDAS STREET, GEOGRAPHIC TOWNSHIP OF TORONTO (CITY OF MISSISSAUGA)	
<p>ROAD CLOSING PLAN OF PART OF A CONTROLLED-ACCESS HIGHWAY IN THE CITY OF MISSISSAUGA REGIONAL MUNICIPALITY OF PEEL</p> <p>SCALE 1 : 2000</p>  <p>----- DATE</p> <p>----- < OLS NAME > ONTARIO LAND SURVEYOR</p>			
MINISTRY OF TRANSPORTATION			
MTO USE ONLY			
PART 1 WAS CLOSED BY ORDER IN COUNCIL OC-_____ EFFECTIVE _____ AND REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF PEEL ON _____, 200____ AS NUMBER _____			
HWY 403 INDEXED UNDER TOWNSHIP OF TORONTO	WP 123-45-67 PLAN AGREES WITH INSTRUCTIONS AND APPROVALS _____ SUPERVISOR	ROAD CLOSING PLAN TYPE 'S' P-5005-216 GEOMATICS PLAN TECHNICIAN	
< MTO REGION >		P-5005-216.DWG	

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8.2 Road Closing (OMB) – Type “T”

A Road Closing Plan is a graphic illustration of a proposal to alter public access to a controlled-access highway, and is used as an exhibit at a hearing before the Ontario Municipal Board. It is also used to illustrate an Ontario Municipal Board Order.

8.2.1 Definition

Road – includes an unopened road allowance.

8.2.2 Statutory Authority

Subsection 37(2) of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, provides that:

37. (2) Subject to the approval of the Board, the Minister may close any road, other than a highway that is under the jurisdiction and control of the Ministry, that intersects or runs into a controlled-access highway.

8.2.3 Effect

The approval of the closing becomes effective on the date the Ontario Municipal Board's Order is issued. No physical closing may be made until all the conditions laid down in the Board Order have been met. The registration of the plan and Board Order merely serve as a public notice.

NOTE: Since the roads being closed are not under the jurisdiction of the Ministry, title of the land in question is not affected. The Minister is given approval to prevent public access to the controlled-access highway at the line of intersection with the limit of the controlled-access highway, subject to any conditions noted in the Board Order.

8.2.4 Authorized Signatories

On the recommendation of the Legal Services, Ministry policy requires that the plan be signed by an Ontario Land Surveyor.

8.2.5 Plan Combination

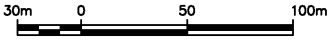
This plan shall not be combined with any other plan type.

8.2.6 Plan Requirements

The plan shall show:

- (a) the corridor limits of the controlled-access highway and interchanges as a heavy solid line. C.A.H. designation data shall be shown;

- (b) labeled thick lines indicating the intersection(s) of the roads to be closed with the CAH designation limit(s)
- (c) roads previously closed by Board Order or by-law;
- (d) untraveled public highways with dashed lines;
- (e) traveled roads with solid lines;
- (f) proposed roads and cul-de-sacs with short, dashed lines;
- (g) lot lines, concession lines and public highway with solid lines;
- (h) names (if identified) of public highways;
- (i) railway corridors and pedestrian trails with thin solid lines;
- (j) proposed and existing structures and bridges;
- (k) lakes and watercourses;
- (l) important land marks (churches, schools, shopping centres, etc.);
- (m) limits of municipalities;
- (n) parcel fabric in the vicinity of the CAH corridor in long dashed lines;
- (o) non-highway Ministry lands with solid lines of light weight and the letters M.T.O.;
- (p) north point;
- (q) edge of pavement of existing CAH if applicable;
- (r) a title block;
- (s) ratio scale and scale bar;
- (t) a schedule showing roads proposed to be closed;
- (u) road closing numbers which are numbered right to left on the plan. (Road closing numbers are used to determine where the road to be closed intersects the controlled-access highway designated limit. A road which intersects both highway limits will have two numbers.)
- (v) a small scale key plan (with a scale bar) which shall show:
 - (i) the C.A.H. on which these closings occur in heavy black lines;
 - (ii) all main streets, roads, railways;
 - (iii) rivers, lakes, and such other information as may be required so that the location of the highway can be determined by the public; and
 - (iv) north point.

<p style="text-align: center;">ONTARIO MUNICIPAL BOARD FILE NUMBER</p> <p style="text-align: center; font-size: 1.2em; margin-top: 20px;">M040099</p>	<p style="text-align: center;">RECORDING CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THIS PLAN HAS BEEN FILED WITH THE _____ IN THE _____ REGION, OF THE MINISTRY OF TRANSPORTATION AT _____ ON THE _____ DAY OF _____, 20____.</p> <p style="text-align: center; margin-top: 20px;">----- < NAME ></p>							
<p style="text-align: center;">METRIC</p> <p style="text-align: center; font-size: 0.8em;">DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>	<p>BOARD ORDER (_____) DATED _____ APPROVES THE CLOSING OF ROADS NUMBERED _____</p>							
<p>SCHEDULE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%;">ROAD</th> <th style="width: 70%;">NAME</th> <th style="width: 20%;">RANKIN MINERAL LOCATION</th> </tr> <tr> <td style="text-align: center;">1</td> <td rowspan="2" style="text-align: center;">FRONTENAC STREET WITHIN LOT 23, R.C.P. H-718</td> <td rowspan="2"></td> </tr> <tr> <td style="text-align: center;">2</td> </tr> </table>		ROAD	NAME	RANKIN MINERAL LOCATION	1	FRONTENAC STREET WITHIN LOT 23, R.C.P. H-718		2
ROAD	NAME	RANKIN MINERAL LOCATION						
1	FRONTENAC STREET WITHIN LOT 23, R.C.P. H-718							
2								
<p>LEGEND</p> <p>R.A. DENOTES REGISTRY ACT L.T. DENOTES LAND TITLES ACT R.D. DENOTES REGISTRY DIVISION R.C.P. DENOTES REGISTRAR'S COMPILED PLAN</p>								
<p>ROAD CLOSING PLAN IN THE CITY OF SAULT STE. MARIE DISTRICT OF ALGOMA</p> <p>SCALE 1: 2000</p> <div style="text-align: center;">  </div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div>DATE _____</div> <div><OLS NAME> ONTARIO LAND SURVEYOR</div> </div> <p style="font-size: 0.8em; margin-top: 10px;"> INDICATES THOSE PORTIONS OF ROAD INTERSECTING OR RUNNING INTO A CONTROLLED-ACCESS HIGHWAY WHICH THE MINISTER OF TRANSPORTATION WISHES TO CLOSE PURSUANT TO THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT. M.T.O. INDICATES LANDS OWNED BY THE MINISTRY OF TRANSPORTATION AND NOT DESIGNATED AS A CONTROLLED-ACCESS HIGHWAY. _____ INDICATES OPEN ROADS. _____ OUTLINES THE BOUNDARIES OF A HIGHWAY DESIGNATED AS A CONTROLLED-ACCESS HIGHWAY BY THE LIEUTENANT GOVERNOR IN COUNCIL, PURSUANT TO THE PROVISIONS OF THE PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT. </p>								
<p>MINISTRY OF TRANSPORTATION</p> <p style="text-align: center;">MTO USE ONLY</p> <p>REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF ALGOMA ON _____, 20____ AS NUMBER _____ AND REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF ALGOMA ON _____, 20____ AS NUMBER _____.</p>								
<p style="text-align: center;">HWY 17N</p> <p>INDEXED UNDER RANKIN MINERAL LOCATION</p> <p style="text-align: center; font-size: 0.8em;">SUPERVISOR</p>	<p style="text-align: center; font-size: 0.8em;">W.O. 406-01-00</p> <p style="text-align: center;">PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"><NAME></div> <div style="width: 45%; text-align: right;">< TITLE ></div> </div> <p style="text-align: center; font-size: 0.8em;">GEOMATICS PLAN TECHNICIAN</p>							
<div style="display: flex; justify-content: space-between;"> <div><MTO REGION></div> <div>P-8264-0.DWG</div> </div>								

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8.3 Reference Plan – Type “U”

A Reference Plan, plan type "U", is a deposited plan of survey. The preparation of the plan is in accordance with the *Registry Act*, the *Land Titles Act*, the *Surveyors Act* and the *Surveys Act* and the Regulations made under them. O.Reg 43/96 s. 19 allows for the compiling of information on a Reference Plan under certain circumstances.

A Crown Land Reference Plan is a deposited plan of survey of unpatented Crown lands similar to a reference plan with the additional requirements of the instructions provided by the Ministry of Natural Resources. (See section 8.3.6)

Reference Plans are prepared by the Ministry to provide a description of land for:

- (a) acquisition or disposal by deed or transfer;
- (b) in the case of expropriation;
 - the Notice of Application for Approval to Expropriate Land;
 - the Newspaper Advertisement; and
 - the Certificate of Approval to Expropriate;
- (c) a Notice of Assumption to acquire an existing highway; (see Assumption Plan - type "L");
- (d) an Order in Council of Ontario or Canada, vesting jurisdiction and control of lands in the Ministry; (see Plan of Canada Lands - type "H" for exception);
- (e) an Order in Council transferring the jurisdiction and control over lands from the Ministry to another Ministry of the Government of Ontario or of Canada; (see Crown Lands Abandonment Plan - type "G" for exception);
- (f) the abandonment of portions of land acquired by an Expropriation Plan;
- (g) an application under provisions of the *Land Titles Act* for the:
 - re-entry of expropriated lands;
 - correction of descriptions of the Parcel Register; and
 - consolidation of parcels;
- (h) lands where a variety of actions are contemplated such as:
 - transferring portions of highway by Order in Council; (see Transfer Plan - type "R");
 - closing of road by Order in Council and disposal by deed; (see Road Closing Plan - type "S");
 - designating a highway; (see Designation Plan - type "O");

- acquiring an existing highway; (see Assumption Plan - type "L");
- replacing a Preliminary Assumption Plan, i.e. Reference Plan illustrating a Notice of Assumption (see Assumption Plan (Replacing) - type "K"); and
- conveyances of real property where a description for a new parcel is needed or a revised description is desirable.

8.3.1 Statutory Authority

Subsection 150(1) of the *Land Titles Act*, R.S.O. 1990, and Regulations made thereunder and sections 80 and 81 of the *Registry Act*, R.S.O. 1990, and Regulations made thereunder are the authorities for depositing a Reference Plan.

THE LAND TITLES ACT

150.--(1) A transfer or charge of freehold or leasehold land shall not be registered unless a plan of the land prepared by an Ontario land surveyor, to be known as a reference plan, has been deposited for record in the land registry office.

- (2) Subsection (1) does not apply to a transfer or charge,
 - (a) of the whole of a registered parcel of land according to the parcel register;
 - (b) of the whole of a lot, block, street, lane, reserve or common according to a registered plan of subdivision or composite plan; or
 - (c) of the whole of a part according to a previously recorded reference plan of survey.
- (3) The land registrar, having regard to the circumstances, may order that subsection (1) does not apply in the case of a transfer or charge mentioned in the order.

THE REGISTRY ACT

80. (1) Subject to section 81, a deed or other conveyance or mortgage of land shall not be registered unless,

- (a) the land is the whole part remaining to the owner of the land described in a registered conveyance to the owner;
- (b) the land consists of the whole of the lot, block, street, lane, reserve or common according to a registered plan of subdivision, judge's plan or municipal plan under section 91;

- (c) the land is the whole of a Part according to a previously recorded reference plan; or
- (d) the land is shown on a plan, to be known as a reference plan, prepared and deposited in accordance with the regulations.

81. (1) Where an instrument submitted for registration contains a description of land that in the opinion of the land registrar is complex or vague, he or she may require a plan of the land to be deposited as a reference plan before accepting the instrument for registration.

(2) Where the land registrar is satisfied that compliance with a requirement made under subsection (1) would be unreasonable, having regard to the circumstances, he or she may accept, in lieu of a reference plan, a sketch of the land prepared in accordance with the regulations.

8.3.2 *Effect*

The deposit of the plan has no direct effect on the title of the land. It provides a legal description which may be used in the future.

8.3.3 *Authorized Signatories*

The Surveyor's Certificate must be signed by an Ontario Land Surveyor on the appropriate form prescribed by the regulations.

8.3.4 *Plan Combination*

It is permissible to combine a Reference Plan prepared under the *Land Titles Act* with one prepared under the *Registry Act*, however, it is not permissible to combine a Reference Plan with any other type of plan.

8.3.5 *Plan Requirements*

- (a) It is not permissible to indicate anywhere on the face of a Reference Plan the purpose for which the plan was prepared or will be used.
- (b) When creating PARTS, consideration should be given not only to the present use of the plan, but also to possible future uses such as: assuming, transferring, closing, disposal of surplus lands, replacing Preliminary Assumption Plans, etc. and where it appears that some of these transactions could take place in the future, separate PARTS should be created.
- (c) Where it is known or appears that some of the transactions that will take place involve the use of an Order in Council, a small scale key plan may be shown adjacent to the title block. A large scale key plan may also be shown to clarify a complex plan, (e.g. if there are many breaks and the plan is difficult to follow).

- (d) No indication shall be made on the face of the Reference Plan or in the schedule to indicate the proposed or future use of a PART. Existing easements, etc, shall be identified and shown as per the Regulations. This information will be contained in the conveyance.
- (e) Where there is a registered easement, it shall be shown as a separate PART on the Reference Plan.
- (f) Where an unregistered easement is reserved in the name of a utility, two conditions may exist:
 - (i) Where the easement is occupied by some works such as a pole line, buried cable, etc., the works should be plotted on the plan and labelled. If the easement is definable, separate Parts may be shown to facilitate future dealings. The easement shall not be identified in the schedule.
 - (ii) Where the easement is neither occupied nor definable, contact should be made with the utility company to ascertain what interest they have in the lands, such as an unregistered instrument. If they have such an instrument, show on the plan the same as (i); or if they have no instrument or right, no mention of the reservation should be made on the plan or in the deed. If the PART is to be expropriated, the matter of expropriating the utility easement shall be reconciled with the Head of the Property Section.

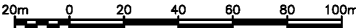
8.3.6 Crown Land Reference Plans

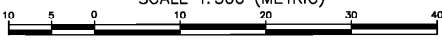
At times the Ministry wishes to deal with unpatented Ontario Crown Lands in conjunction with a project that is not specifically related to the *Public Transportation and Highway Improvement Act*. In these cases a Crown Land Reference Plan may be required.

This type of plan may be used when the Ministry wishes to dispose of Crown Lands to an outside party. The Ministry will then prepare a Notice of Crown Land Abandonment, thereby making it possible for the outside party to apply to the Ministry of Natural Resources for a patent.

The Crown Land Reference Plan shall be prepared according to instructions given by the Ministry of Natural Resources. Instructions and permission shall be obtained by the surveyor performing the survey by contacting the:

Ministry of Natural Resources
Natural Resources Information Branch Office of the Surveyor General
300 Water Street
P.O. Box 7000
Peterborough, Ontario
K9J 8M5

<p style="text-align: center;">I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">DATE</p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><OLS NAME> ONTARIO LAND SURVEYOR</p>		<p style="text-align: center; font-size: 1.2em;">PLAN 59R—</p> <p style="text-align: center;">RECEIVED AND DEPOSITED</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">DATE</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">LAND REGISTRAR FOR THE LAND TITLES DIVISION OF NIAGARA SOUTH (No. 59)</p>																	
<p style="text-align: center;">METRIC</p> <p style="text-align: center;">DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048</p>		<p style="text-align: center;">SCHEDULE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 5%;">PART</th> <th style="width: 45%;">LOT</th> <th style="width: 30%;">CONCESSION</th> <th style="width: 20%;">PIN</th> </tr> <tr> <td style="text-align: center;">1</td> <td>PART OF 21</td> <td rowspan="4" style="text-align: center; vertical-align: middle;">2</td> <td rowspan="4" style="text-align: center; vertical-align: middle;">ALL OF 64423-0210(LT)</td> </tr> <tr> <td rowspan="3" style="text-align: center;">2</td> <td>PART OF 20</td> </tr> <tr> <td>PART OF 21</td> </tr> <tr> <td>PART OF THE ORIGINAL ROAD ALLOWANCE BETWEEN LOTS 20 AND 21</td> </tr> <tr> <td style="text-align: center;">3</td> <td>PART OF 21</td> <td></td> <td></td> </tr> </table>		PART	LOT	CONCESSION	PIN	1	PART OF 21	2	ALL OF 64423-0210(LT)	2	PART OF 20	PART OF 21	PART OF THE ORIGINAL ROAD ALLOWANCE BETWEEN LOTS 20 AND 21	3	PART OF 21		
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<p>LEGEND</p> <p>PL1 DENOTES PLAN 59R-5173 (P-5064-7)</p> <p>PL2 DENOTES PLAN 59R-5082 (P-5064-5)</p> <p>PL3 DENOTES MTO TRANSFER PLAN P-5064-30</p> <p>CALC DENOTES CALCULATED FROM PLAN 59R-5173 (P-5064-7)</p> <p>NOTE</p> <p>BEARINGS SHOWN HEREON ARE GRID BEARINGS AND ARE DERIVED FROM CONTROL SURVEY MONUMENTS 008790079 (N4763457.574, E327129.200) AND 008790086 (N4763748.982, E327141.034), (NAD 27) AS SHOWN ON PLAN 59R-5173 (P-5064-7).</p>																			
<p>COMPILED PLAN OF SURVEY</p> <p>PART OF LOTS 20 AND 21, CONCESSION 2, AND PART OF THE ORIGINAL ROAD ALLOWANCE BETWEEN LOTS 20 AND 21, CONCESSION 2 (CLOSED BY BY-LAW 4337, INST. BB90236)</p> <p>GEOGRAPHIC TOWNSHIP OF CROWLAND IN THE CITY OF WELLAND REGIONAL MUNICIPALITY OF NIAGARA</p> <p style="text-align: center;">SCALE 1:2000</p>  <p>SURVEYOR'S CERTIFICATE</p> <p>I CERTIFY THAT: THIS PLAN IS AN ACCURATE COMPILATION BASED ON DATA DERIVED FROM THE FOLLOWING PLANS: 59R-5173 (P-5064-7), 59R-5082 (P-5064-5) AND P-5064-30.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">DATE</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">< OLS NAME > ONTARIO LAND SURVEYOR MINISTRY OF TRANSPORTATION</p>																			
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<p>HWY 406</p>	<p>PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</p> <p>_____</p> <p><NAME> _____ <TITLE></p>	<p>REFERENCE PLAN PLAN TYPE 'U'</p> <p>P-5064-0032</p>																	
<p>INDEXED UNDER TOWNSHIP OF CROWLAND</p>	<p>SUPERVISOR</p>	<p>GEOMATICS PLAN TECHNICIAN</p>																	
<p>< MTO REGION > P-5064-0032.DWG</p>																			

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE REGISTRY ACT DATE _____ A. AGRIMENSORE, O.L.S.		PLAN 12R- RECEIVED AND DEPOSITED DATE _____ DEPUTY LAND REGISTRAR FOR THE REGISTRY DIVISION OF ESSEX (No. 12)																																			
SCHEDULE																																					
PART	DESCRIPTION	P.I.N.	NAME	AREA	LOCATION																																
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2	REGISTERED PLAN 560	01263-1242(R) BEING PART OF INST R1542368	CONSTRUCTION LTD.	713.1m ²	CITY OF WINDSOR																																
PARTS 1 AND 2 ARE SUBJECT TO AN EASEMENT IN FAVOUR OF THE BELL TELEPHONE COMPANY AND THE TOWNSHIP OF SANDWICH WEST AS DESCRIBED IN INSTRUMENT R233264																																					
<p>PLAN OF SURVEY OF PART OF BLOCK "A" (ALLEY CLOSED AND ESTABLISHED AS BLOCK A BY JUDGES ORDER, REGISTERED AS INST. R233264) REGISTERED PLAN 560 (GEOGRAPHIC TOWNSHIP OF SANDWICH WEST) IN THE CITY OF WINDSOR COUNTY OF ESSEX SCALE 1:500 (METRIC)</p>  <p>(SCALE IN METRES) A. AGRIMENSORE ONTARIO LAND SURVEYOR</p>																																					
<p>LEGEND:</p> <table style="width: 100%;"> <tr><td>□</td><td>DENOTES SURVEY MONUMENT SET</td></tr> <tr><td>✦</td><td>DENOTES SURVEY MONUMENT FOUND</td></tr> <tr><td>SIB</td><td>DENOTES STANDARD IRON BAR</td></tr> <tr><td>SSIB</td><td>DENOTES SHORT STANDARD IRON BAR</td></tr> <tr><td>IB</td><td>DENOTES IRON BAR</td></tr> <tr><td>MEAS</td><td>DENOTES MEASURED</td></tr> <tr><td>WT</td><td>DENOTES WITNESS</td></tr> <tr><td>1528</td><td>DENOTES VERHAEGEN STUBBERFIELD HARTLEY BREWER BEZAIRE INC., O.L.S.</td></tr> <tr><td>1341</td><td>DENOTES RICHARD W. MURRAY, O.L.S.</td></tr> <tr><td>P1</td><td>DENOTES PLAN 12R-22121</td></tr> <tr><td>P2</td><td>DENOTES REGISTERED PLAN 560</td></tr> <tr><td>N1</td><td>DENOTES ANGULAR DIRECTION DERIVED AND SET FROM PLAN 12R-22121</td></tr> <tr><td>P.I.N.</td><td>DENOTES PROPERTY IDENTIFIER NUMBER</td></tr> <tr><td>HCM</td><td>DENOTES HORIZONTAL CONTROL MONUMENT</td></tr> <tr><td>DIST</td><td>DENOTES DISTURBED, DID NOT USE</td></tr> <tr><td>REM</td><td>DENOTES REMAINDER</td></tr> </table>						□	DENOTES SURVEY MONUMENT SET	✦	DENOTES SURVEY MONUMENT FOUND	SIB	DENOTES STANDARD IRON BAR	SSIB	DENOTES SHORT STANDARD IRON BAR	IB	DENOTES IRON BAR	MEAS	DENOTES MEASURED	WT	DENOTES WITNESS	1528	DENOTES VERHAEGEN STUBBERFIELD HARTLEY BREWER BEZAIRE INC., O.L.S.	1341	DENOTES RICHARD W. MURRAY, O.L.S.	P1	DENOTES PLAN 12R-22121	P2	DENOTES REGISTERED PLAN 560	N1	DENOTES ANGULAR DIRECTION DERIVED AND SET FROM PLAN 12R-22121	P.I.N.	DENOTES PROPERTY IDENTIFIER NUMBER	HCM	DENOTES HORIZONTAL CONTROL MONUMENT	DIST	DENOTES DISTURBED, DID NOT USE	REM	DENOTES REMAINDER
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<p>SURVEYOR'S CERTIFICATE:</p> <p>I CERTIFY THAT:</p> <p>(1) THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.</p> <p>(2) THE SURVEY WAS COMPLETED ON THE 10th DAY OF NOVEMBER, 2006.</p> <p style="text-align: center;"> _____ DATE A. AGRIMENSORE ONTARIO LAND SURVEYOR </p>																																					
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8.4 Plan of Survey – Type “V”

A Plan of Survey is prepared for the purpose of providing additional survey information, particularly concerning the position of survey monuments to define or redefine the boundaries of lands under the jurisdiction and control of the Ministry.

A modified version of the plan may be used for miscellaneous purposes where a legal survey is essential, such as an aggregate permit boundary or patrol yard boundary where a survey and plan are required.

8.4.1 Statutory Authority

There is no specific statutory requirement for this plan type, but note that sections 6, 18, and 19 of the *Public Transportation and Highway Improvement Act* provide a general authority for survey and other work.

8.4.2 Effect

To provide survey information such as the location of survey monuments found or planted, the location of lot corners, highway limits or other information useful to the surveying profession in making surveys of lands adjacent to a highway; or in a modified format to provide cadastral and topographic survey information for presentation as evidence at a court hearing.

8.4.3 Authorized Signatories

The plan must be signed by an Ontario Land Surveyor. If the plan is prepared for a court hearing, it should be "Certified Correct" by an Ontario Land Surveyor, who may be called upon to present the plan as evidence.

8.4.4 Plan Combination

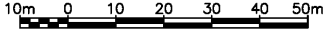
A Plan of Survey shall not be combined with any other type of plan.

8.4.5 Plan Requirements

- (a) If Crown lands are involved the plan shall be filed with the Ministry of Natural Resources, with the appropriate certificate added to the title block.
- (b) If the plan is prepared for presentation in court it will not be examined or registered, therefore, it will not require a "Registration Certificate" or "Surveyor's Certificate", but it must be signed by an Ontario Land Surveyor.

8.4.6 Approval

The completed plan shall be approved by the requester, particularly if litigation is involved, to ensure that the plan presents the information in a manner acceptable to the courts.

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048													
LEGEND NOTES DISTANCES SHOWN HEREON ARE ADJUSTED GROUND DISTANCES AND CAN BE USED TO COMPUTE GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.99998 BEARINGS HEREON ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL SURVEY MONUMENTS 20010101 (N 123456.789 E 246810.731) AND 20100202 (N 987654.321 E 108842.789) AND BASED ON THE MTM COORDINATE SYSTEM ZONE 10, AND ARE REFERRED TO THE CENTRAL MERIDIAN 79°30' WEST LONGITUDE. (NAD83(ORIG) ADJUSTMENT)	<table border="0"> <tr> <td style="padding-right: 10px;">△ HCM</td> <td>DENOTES HORIZONTAL CONTROL MONUMENT</td> </tr> <tr> <td>□</td> <td>DENOTES SET MONUMENT</td> </tr> <tr> <td>■</td> <td>DENOTES FOUND MONUMENT</td> </tr> <tr> <td>MTO</td> <td>DENOTES MINISTRY OF TRANSPORTATION OF ONTARIO</td> </tr> <tr> <td>MEAS</td> <td>DENOTES MEASURED</td> </tr> </table>	△ HCM	DENOTES HORIZONTAL CONTROL MONUMENT	□	DENOTES SET MONUMENT	■	DENOTES FOUND MONUMENT	MTO	DENOTES MINISTRY OF TRANSPORTATION OF ONTARIO	MEAS	DENOTES MEASURED		
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MEAS	DENOTES MEASURED												
PLAN OF SURVEY ILLUSTRATING THE LOCATION OF MONUMENTS PLANTED IN ADDITION TO THOSE SHOWN ON REGISTERED PLAN 62 (P-1999-11) IN LOT 36 GEOGRAPHIC TOWNSHIP OF SUMMERHILL DISTRICT OF PHILLIPS SCALE 1 : 1000 													
<p style="text-align: center;">SURVEYOR'S CERTIFICATE</p> <p>I CERTIFY THAT:</p> <ol style="list-style-type: none"> THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM. THE SURVEY WAS COMPLETED ON THE ____th DAY OF _____, 200__. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> _____ DATE </div> <div style="width: 45%;"> _____ < NAME > ONTARIO LAND SURVEYOR </div> </div> <div style="text-align: center;"> < MINISTRY OF TRANSPORTATION OR C. OF A. NAME > </div>													
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<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">HWY 38</td> </tr> <tr> <td style="text-align: center;">INDEXED UNDER TOWNSHIP OF SUMMERHILL</td> </tr> <tr> <td style="text-align: center;">SUPERVISOR</td> </tr> </table>	HWY 38	INDEXED UNDER TOWNSHIP OF SUMMERHILL	SUPERVISOR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: small;">W.O. 1812-02-03</td> <td style="font-size: small;">P.R. 29/3096</td> </tr> <tr> <td colspan="2" style="text-align: center;">PLAN AGREES WITH INSTRUCTIONS AND APPROVALS</td> </tr> <tr> <td style="text-align: center;"><NAME></td> <td style="text-align: center;"><TITLE></td> </tr> </table>	W.O. 1812-02-03	P.R. 29/3096	PLAN AGREES WITH INSTRUCTIONS AND APPROVALS		<NAME>	<TITLE>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; vertical-align: top;"> PLAN OF SURVEY PLAN TYPE 'V' P-1415-92 </td> </tr> <tr> <td style="text-align: center; font-size: small;">GEOMATICS PLAN TECHNICIAN</td> </tr> </table>	PLAN OF SURVEY PLAN TYPE 'V' P-1415-92	GEOMATICS PLAN TECHNICIAN
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8.5 Navigable Waters Plan – Type “W”

The *Navigable Waters Protection Act* is a Federal Statute. It is designed to protect the public right of navigation in, on, over, under, through or across navigable water. The Act requires that approval be obtained before any work which might interfere with navigation (including a bridge, wharf, tunnel, pipe, structure, device or thing) can be constructed. As a condition preceding the granting of approval, an application must be made, a plan deposited in the proper Land Registry Office and public notice given.

The purpose of this plan is to illustrate geographic location, general arrangement and navigational clearances of the proposed work.

The approval relieves the Ministry of Transportation of liability within the limits of horizontal and vertical clearances as established in the approval.

8.5.1 Definitions

The Act – *The Navigable Waters Protection Act*, Revised Statutes of Canada 1985, Chapter N-22.

Minister – The Minister of Transport (Canada).

Navigable Water – Is not defined in the Act and differs somewhat from the meaning of Navigable Water in Ontario law. It is described in the *Navigable Waters Protection Act Application Guide* as “any body of water capable of being navigated by floating vessels of any description for the purpose of transportation, commerce or recreation. This includes both inland and coastal waters. The authority to determine the navigability of a waterway and consequently the requirement for an application under the *Navigable Waters Protection Act* rests with the Minister of Transportation or his/her designated representative.” See additional comment below.

Work - This is defined in the *Navigable Waters Protection Act (Canada)* as follows.

"work" includes

- (a) any bridge, boom, dam, wharf, dock, pier, tunnel or pipe and the approaches or other works necessary or appurtenant thereto,
- (b) any dumping of fill or excavation of materials from the bed of a navigable water,
- (c) any telegraph or power cable or wire, or
- (d) any structure, device or thing, whether similar in character to anything referred to in this definition or not, that may interfere with navigation.

R.S., c. N-19, s. 3.

NOTE: There is no definition of "navigable water" given in the Act. Navigability in law and navigability under the *Navigable Waters Protection Act* are related but not necessarily the same thing. The definition of navigability in law, by the survey profession and the courts in Ontario, is

based on an analysis of appropriate case and statute law and if the body of water was navigable at the time of the Crown Grant. Whether or not a particular water body is navigable, is a matter of fact and must be decided with respect to each case.

A determination of navigability under the *Navigable Waters Protection Act*, while using legal principles in determining navigability (primarily the case of *Coleman v Attorney General for Ontario*), is not meant to infer any rights or ownership based on navigability in law. Additionally, the *Navigable Waters Protection Act* extends authority over artificial or altered bodies of water, head pools of power sites, canals and bodies of water created as a result of construction of a "work". If requested, the Minister of Transport (Canada) or his/her designated representative will provide an opinion as to whether a particular body of water is navigable for the purposes of the *Navigable Waters Protection Act*.

It is not clear whether a determination of navigability in law is enough to warrant an application under the *Navigable Waters Protection Act*. It must be emphasized that the MTO must decide whether or not to make an application for approval of the plan and site and the Ministry of Transport (Canada) can take no responsibility for having advised that, in its opinion, a water is not navigable if a court later holds that it is. Similarly, the Ministry can take no responsibility for advising that a water is navigable if a court later holds that it is not.

If there is any doubt about whether or not the particular water is navigable under, in, or over which it is proposed to construct "work", it is considered advisable to make application under the Act.

8.5.2 Statutory Authority

Subsection 5(1) and Section 9 of the *Navigable Waters Protection Act* outline the conditions under which "work" may be carried out and the manner by which the plan and the description may be deposited.

5. (1) No work shall be built or placed in, on, over, under, through or across any navigable water unless

- (a) the work and the site and plans thereof have been approved by the Minister, on such terms and conditions as the Minister deems fit, prior to commencement of construction;
- (b) the construction of the work is commenced within six months and completed within three years after the approval referred to in paragraph (a) or within such further period as the Minister may fix; and
- (c) the work is built, placed and maintained in accordance with the plans, the regulations and the terms and conditions set out in the approval referred to in paragraph (a).

9. (1) A local authority, company or person proposing to construct, in navigable waters, any work for which no sufficient sanction otherwise exists may deposit the plans thereof and a description of the proposed site with the Minister, and a duplicate of each in the office of the registrar of deeds or the land titles office for the district, county or province in which the work is proposed to be constructed, and may apply to the Minister for approval thereof.

(2) The local authority, company or person referred to in subsection (1) shall give one month's notice of the deposit of plans and application by advertisement in the Canada Gazette, and in two newspapers published in or near the locality where the work is to be constructed.

Subsection 9(1) above reflects an amendment in 1993 to allow deposit of navigable waters plans in either registry or land titles offices. Previously it was mandatory to deposit them in the registry office. If no registry office existed in the area, it was then in order to deposit them in the land titles office.

NOTE: This Act should not be confused with the *Beds of Navigable Waters Act* which is an Ontario Statute concerning the title of the "bed" of navigable bodies of water in Ontario and not with their navigability.

Under the *Beds of Navigable Waters Act* (Ontario) the Ministry of Natural Resources may express an opinion as to the navigability of any waters in Ontario, however, such an opinion is not binding and may be over-ruled by the courts. An opinion by the Ministry of Natural Resources would not change federal requirements or their determination of navigability under the *Navigable Waters Protection Act* (Canada).

8.5.3 *Effect*

The deposit of the application and the plan is procedural and fulfils the requirements of the *Navigable Waters Protection Act* (Canada).

An approval granted by the Minister in respect of a "work", the site and plans thereof pursuant to the Statute, is only an authorization to interfere with the public right of navigation to the extent of the work for which the site and plans have been approved.

"Works" must be commenced within 6 months and completed within 3 years of the approval. Approvals for various "works" are valid for periods determined by regulation providing they are maintained in accordance with the plans, the regulations and the terms and conditions of the approval. Concrete and steel bridges are valid for 50 years; causeways are valid for 35 years. Culverts can be classified as bridges or causeways for the purposes of approvals under the Act.

The approval of the Minister is not an approval of construction nor an authorization in respect of any Statute, Regulation or By-law, Federal, Provincial or Municipal which may require some other form of authorization in respect of construction, land use, noise, weed or pollution control, zoning or like matters. Nor does such approval of the Minister vest in the recipient any title, easement, restriction or other property rights in respect of any property adjacent to or in the vicinity of the work. An approval granted by the Minister under the *Navigable Waters Protection Act* remains applicable to the work notwithstanding the transfer of title to the work. Where Federal or Provincial Crown land is involved, arrangements should be made with the department or agency with the administration of such land before construction is commenced.

8.5.4 *Authorized Signatories*

It is Ministry policy to have the plan signed by the Ontario Land Surveyor who supervised the project.

8.5.5 *Plan Combinations*

Navigable Waters Plans shall not be combined with any other plan type.

8.5.6 *Plan Requirements*

The plan shall be prepared in accordance with the following instructions:

- (a) The plan of the proposed work must give sufficient details to enable the Department of Transport to ascertain the effect of the work on navigation.

– It shall indicate the elevation of the *mean water level* and *high water level* defined as follows:

Mean Water Level - This level represents the elevation of the water at the commencement of navigation season, usually in May or June. The Geomatics Sections can acquire this elevation from the Regional Structural Office, which is in liaison with the appropriate Navigable Waters Protection Act Programs Division. This is the elevation upon which the navigational clearances are based.

High Water Level - This elevation can usually be identified from changes in vegetation, stain on rock, etc.

It is no longer appropriate to show a water level on a random date as done in the past.

- elevation of the bed of the body of water at the centre of the structure,
 - profile of the body of water,
 - minimum navigation clearance and the width of navigation clearance,
 - horizontal clearance between bridge abutments or piers for navigation channel,
 - elevation of the top of all bridge footings,
 - total length of the structure and distances between centres of piers, face of ballast walls, etc.
 - scale ratio and scale bar for profile,
 - the structure to be removed (if any) shown by short dashed lines and labelled.
- (b) A small scale key plan shall be shown in the title block area. It will contain a ratio scale, a north point and the appropriate topographical sheet/map identification shown in the bottom right corner.

- (c) The title block shall contain a description of the Bench Mark to which the datum is referred. If the Bench Mark is geodetic, its number is sufficient description.
- (d) A plan view drawn to scale shall illustrate the location of the proposed site in relation to centerline of the highway and to underlying lot fabric (lot, concession, registered plan etc.). The sketch shall not include legal survey information such as monumentation, bearings and distances but shall show only the following distances and other data:
- the distances only, around the perimeter of the PART which shall be bounded by both shorelines and the most recent designation limits (controlled-access, king’s highway, etc.),
 - the total width of the structure to be erected,
 - the position of the new structure plotted by solid lines and the structure to be removed or twinned (if any) shown by short dashed lines, both labelled appropriately,
 - position of all bridge piers between the shorelines,
 - detail of any shoreline changes, erosion control and dredging or filling associated with new construction,
 - name of river, direction of flow and highway name/number,
 - scale ratio and scale bar for sketch,
 - the location, identification and elevation of the bench mark used to provide elevations,
 - any other pertinent information, e.g. “SHORELINE TO REMAIN IN ITS CURRENT STATE AFTER CONSTRUCTION”
- (e) The shore outline is to be extended beyond the proposed site to provide a reasonable appreciation of the natural boundary; traverse lines are not to be shown.
- (f) Since the purpose of this plan is to illustrate “engineering details”, the bearing note and the Surveyor’s Certificate which are required in a legal plan are not to be included in the title block.
- (g) It is not necessary for this Ministry to have title to the “Bed” of the water or the “approaches” prior to filing the Navigable Waters Plan, however, title to these lands should be settled prior to commencing construction of the bridge.
- (h) The Federal Government is interested in the clearance between the “Ordinary High Water Mark” and the lowest part of the bridge, in the navigation channel area and the horizontal clearance on the water between the piers and/or the shore. With this in mind it is not necessary that extensive construction details be shown on the plan. The drawing should be kept to the minimum showing only what is actually required.
- (i) The required Land Registry Office form for the Land Registrar’s signature is Certificate of Recording, Form 3, under the *Registry Act*, Regulation 992, to go at the top right corner of the first plan sheet. A deposit requisition form (Form 7 Regulation 43/96) is not called for as this plan type is exempted from Reg. 43/96 by 3(1)(a) of that regulation, and the Canada Lands Index provides a listing for public inspection. Reference MCBS(MGS) Bulletin 2004-3.

8.5.7 *The Description*

The description required is a detailed written description of the specific area where the proposed work is to be located and will be contained in the title block. Reference must be made to underlying and/or adjoining subdivision units, township, etc. Examples of typical wording are as follows:

(1) IN THE TOWNSHIP OF PAIPOONGE, IN THE DISTRICT OF THUNDER BAY, IN THE PROVINCE OF ONTARIO, BEING THE BED OF THE KAMINISTIGUIA RIVER LYING BETWEEN LOT 8, CONCESSION A, NORTH OF THE KAMINISTIGUIA RIVER AND LOT A, CONCESSION A, SOUTH OF THE KAMINISTIGUIA RIVER

(2) IN THE CITY OF WELLAND, IN THE REGIONAL MUNICIPALITY OF NIAGARA, FORMERLY IN THE TOWNSHIP OF THOROLD IN THE COUNTY OF WELLAND IN THE PROVINCE OF ONTARIO, BEING THE BED OF THE OLD WELLAND CANAL LYING IN LOTS 238 AND 238 BROKEN FRONT, AND OVER PARTS OF THE ORIGINAL ROAD ALLOWANCES BETWEEN LOTS 229 AND 238, 223 BROKEN FRONT AND 238 BROKEN FRONT, AND 238 AND 238 BROKEN FRONT, OF THE GEOGRAPHIC TOWNSHIP OF THOROLD.

8.5.8 *Approval*

A letter from the Regional Structural Section under a property request issued by the Regional Planning and Design Section is the authority for Geomatics Section to prepare a Navigable Waters Plan. This request is made approximately nine months before the “Award date” and specifies a plan completion date. There are time limits and deadlines that Structural Section, who are in charge of the project, must adhere to in dealing with the *Navigable Waters Protection Act*.

Five prints of the completed plan are sent to the Regional Structural Section for approval who then send three prints to Transport Canada for their comments and preliminary approval. When Structural Section has received the approved plan from Transport Canada, a copy of the plan is marked up with the comments from Structural Section and from Transport Canada and returned to Geomatics Section with a memo requesting that the plan be deposited (after requested corrections, if any). Geomatics will return 10 paper prints and one reproducible transparency to Structural Section after deposit of the plan.

8.5.9 *Amending the Plan*

When alteration of a bridge structure is made and a new Navigable Waters Plan is drawn to replace the previous plan, show a notation similar to that indicated below:

NOTE: THIS PLAN AMENDS AND REPLACES PLAN P-3132-10 DEPOSITED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF THUNDER BAY, ONTARIO ON THE 9TH DAY OF SEPTEMBER, 1970, AS NUMBER 56138.

ALTERATIONS IN THE PROFILE OF THE PROPOSED STRUCTURE OVER THE WHITE LAKE NARROWS HAVE BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE DEPARTMENT OF TRANSPORT (CANADA).

NO ALTERATION TO THE AREA OF LANDS UNDER THE WATERS OF THE WHITE LAKE NARROWS HAS BEEN MADE.

Whenever the original plans deposited in the Land Registry Office require amendment, they shall be re-deposited in the Land Registry Office and a copy thereof submitted to the Chief, Aids to Navigation, together with nine additional copies for processing purposes.

8.5.10 *Crossing Permits*

When the body of water involved is a canal under Federal Government jurisdiction, a Crossing Permit is required in addition to the normal approval of the Navigable Waters Plan. A special or separate plan is no longer required for Crossing Permits.

After the Navigable Waters Plan is approved, 11 paper prints of the plan and description are forwarded to the Regional Structural Section for processing and approval of the Crossing Permit.

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8.6 Connecting Link Designation Plan – Type “X”

The purpose of the Connecting Link Designation Plan is to form part of the Minister’s Order which defines the route being designated as a connecting link. Municipalities are eligible for specific subsidies from the Ministry of Transportation with regard to capital construction of these routes. While subsection 21(1) of the *Public Transportation and Highway Improvement Act* makes reference to “a connecting link between parts of the King’s Highway” or “an extension of the King’s Highway”, for the sake of simplicity, any highway designated under this section is generally referred to as a “connecting link”.

8.6.1 Definitions

Designated Routes (Connecting Link Routes) – are the highways within the municipality which are designated by Minister’s Order (formerly by Order in Council) as connecting link. These highways are under the jurisdiction of the municipality.

Connecting Link Book – means a complete set of type ‘X’ plans and Minister’s Orders which are distributed primarily to personnel within the Ministry of Transportation. They are also distributed to certain Ministries of the Ontario Government, Federal Government and some private corporations.

8.6.2 Statutory Authority

There is no statutory authority for the Connecting Link Designation Plan. Section 21 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, is the authority for the designation.

21. (1) The Minister may designate a highway or part of a highway as a connecting link between parts of the King’s Highway or as an extension of the King’s Highway, to be constructed and maintained by the road authority having jurisdiction over the highway or part of the highway.

(2) A highway or part of a highway does not, by reason of its having been designated under subsection (1), become the property of the Crown, but every such highway or part of a highway remains under the jurisdiction and control of the road authority.

8.6.3 Authorized Signatories

Authorized signatures are not required for the Connecting Link Designation Plan. The completed plan, however, shall be approved by the requestor to ensure that it is correct.

8.6.4 *Conditions for Designation*

- (a) The road must be under the jurisdiction and control of a municipality.
- (b) The road must either connect parts of a King's or Secondary Highway under the jurisdiction and control of the Ministry, or be an extension of a King's or Secondary Highway under the jurisdiction and control of the Ministry.

8.6.5 *Plan Combinations*

A Connecting Link Designation Plan shall not be combined with any other type of plan.

8.6.6 *Plan Requirements*

The Designation Plan is compiled from existing information such as:

- County Maps of Southern Ontario and District Maps of Northern Ontario reduced or enlarged to fit the circumstances;
- Topographical Maps, Forest Resource Inventory (F.R.I.) sheets, Town plans and Engineers' drawings of the municipality;
- Title Record plans, P-plans and study plans; and
- Ontario Municipal Board annexation order and Ontario Statutes.

The plan shall include the following information:

- (a) the existing municipal name and limits accurately plotted and indicated by dashed lines of medium weight; one long and two short;
- (b) the designated routes indicated by a heavy dashed line;
- (c) highways under the jurisdiction and control of M.T.O., other than controlled-access highways shown by a light, double solid line;
- (d) traveled Controlled-Access Highways shown by hatched medium solid lines and proposed or unopened Controlled-Access Highways shown by hatched dashed lines;
- (e) other streets and road allowances shown by a light, double dash line;
- (f) topographical features such as lakes, rivers and large islands, shown and named. Railways and airports shall also be shown;
- (g) street names of the designated routes shown together with the length of the designation in kilometres. The distance is rounded off to the nearest 0.05 of a kilometre.
- (h) all highways under the jurisdiction and control of M.T.O. within the municipality identified and the distance shown;
- (i) the highway numbers and symbol shown outside the municipal limits. The route numbers may be shown within the municipal limits for clarification purposes;
- (j) the names of the surrounding municipalities or geographic townships;

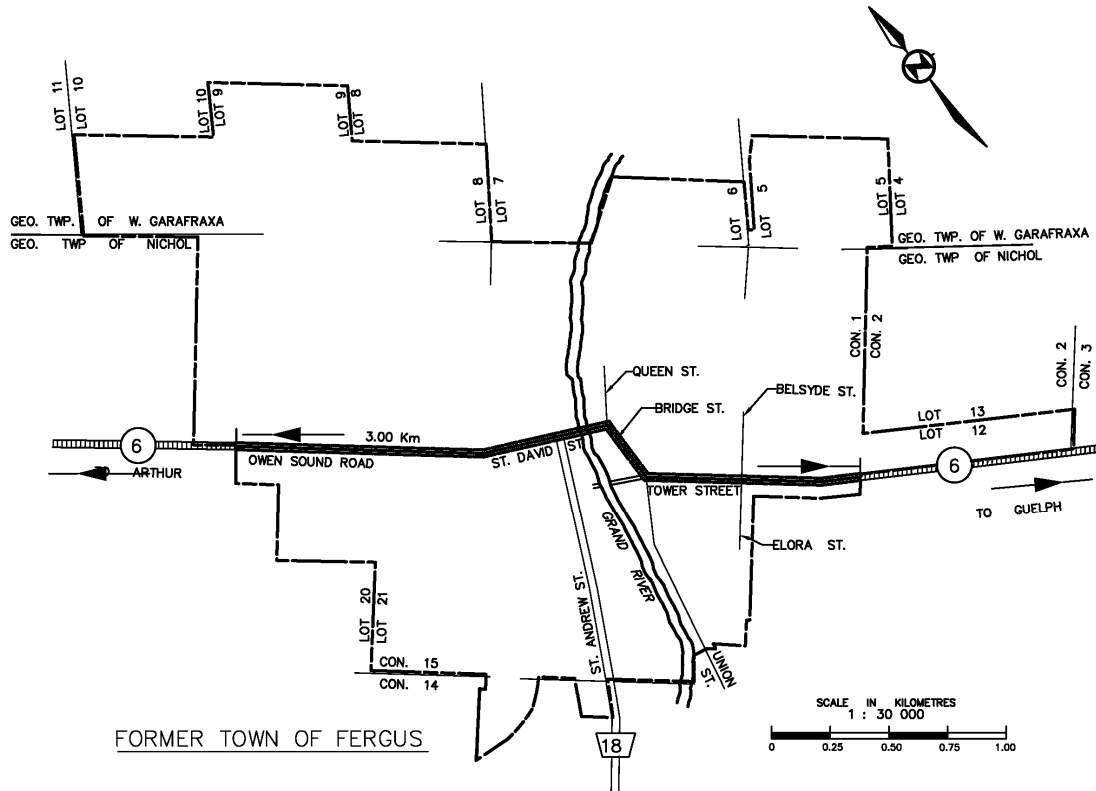
- (k) a metric scale bar, small north point, and assessed population shown in an appropriate location on the plan. The population figure is obtained from the latest Municipal Directory and added later;
- (l) a standard title block for Connecting Link Designation Plan; and
- (m) a “revised” date block to be located at the lower left corner of the plan.

8.6.7 *Approving Authority*

Currently the approving authority for the Connecting Link Designation Plan and Minister’s Order is the Director, Contract Management and Operations Branch.

TOWNSHIP OF CENTRE WELLINGTON

COUNTY OF WELLINGTON



PLAN TYPE "X"		FOR M.T.O. USE ONLY	
CONNECTING LINK DESIGNATION IN THE TOWNSHIP OF CENTRE WELLINGTON COUNTY OF WELLINGTON		PLAN AGREES WITH RECOMMENDATION FROM : DATED :	W.O. MUNICIPAL RESTRUCTURING OPERATIONS: OWEN SOUND & LONDON HWY. No. : 6 DISTANCE: 3.00 Km
		< NAME > < TITLE >	PLAN No. P-7777-88
MINISTRY OF TRANSPORTATION		<MTO REGION>	P-7777-88.DWG

8.7 Local Roads Area – Minister’s Order & Plan – Type “Z”

Under the *Local Roads Boards Act*, the Minister may, by an Order in writing, establish a Local Roads Area and may designate the Local Roads to be included therein. When the Minister’s Order is filed with the Registrar of Regulations, it becomes an Ontario Regulation.

8.7.1 Statutory Authority

Subsections 8(1) and 16(6) of the *Local Roads Boards Act*, R.S.O. 1990, chapter L.27 are the statutory authority for establishing a Local Roads Area and any alterations made thereafter. This Act applies only in territory without municipal organization.

8. (1) Upon receipt of a petition, the Minister, if the Minister considers it in the public interest so to do for the purposes of this Act, may, by order in writing, establish the proposed local roads area, or any smaller or larger area as the Minister considers appropriate, as a local roads area, and the Minister may designate the local roads to be included therein.

16. (6) Where the Minister receives a copy of a proposal together with a statement of results as set out in subsection (5), the Minister, if the Minister considers it in the public interest to do so, may by order in writing alter the boundaries of the local roads area or the roads included therein in accordance with the proposal or in such other manner as the Minister considers appropriate.

R.S.O. 1980, c. 251, s. 16.

8.7.2 Request and Approval

A request by the Field Services Engineer, reviewed by the Regional Operations Officer, and approved by the Manager of Operational Services will be issued to:

- establish a Local Roads Area; or
- redefine the boundaries of a Local Roads Area; or
- redefine or revoke an existing Local Roads Area; or
- establish a Local Roads Area from existing Statute Labour Board.

The above proposals are initiated by a Local Roads Board and submitted to the Minister for approval in form of a petition.

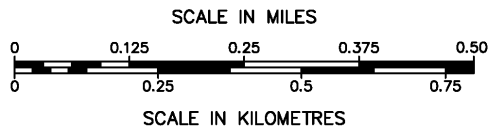
The Geomatics Section will prepare a Minister’s Order and plan to either establish a new Local Roads Area or to revise an existing Local Roads Area.

RECORDING CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAN _____ HAS BEEN FILED WITH THE
 _____ OF _____ REGION, OF THE MINISTRY OF TRANSPORTATION
 ONTARIO AT THUNDER BAY ON THE _____ DAY OF _____, 20____

 < NAME >

PLAN OF LOCAL ROADS AREA SHOWING THE BIGSTONE BAY LOCAL ROADS AREA AND THE LOCAL ROADS INCLUDED THEREIN IN THE TOWNSHIP OF KIRKUP DISTRICT OF KENORA



THIS PLAN ILLUSTRATES THE BOUNDARIES OF THE BIGSTONE BAY LOCAL ROADS AREA
 AND THE LOCAL ROADS INCLUDED THEREIN. THIS PLAN AMENDS AND REPLACES N-498-B1.

 DATE

 <NAME>
 MANAGER, OPERATIONAL SERVICES
 <MTO REGION>

	THE KING'S HIGHWAY
	SECONDARY HIGHWAY
	LOCAL ROADS
	BOUNDARY OF LOCAL ROADS AREA
	OTHER ROADS
	TOWNSHIP BOUNDARY
	PATENTED LOTS
	CROWN LOTS

MINISTRY OF TRANSPORTATION

MTO USE ONLY

ADDED AS SCHEDULE _____ TO REGULATION <#> BY ONTARIO REGULATION _____

FILED IN THE OFFICE OF THE REGISTRAR OF REGULATIONS EFFECTIVE _____

PUBLISHED IN THE ONTARIO GAZETTE _____ AT PAGE _____

HWY. DISTRICT THUNDER BAY (KENORA)	PLAN AGREES WITH INSTRUCTIONS AND APPROVALS FROM <NAME, TITLE> DATED _____ _____ <NAME> <TITLE>	LOCAL ROADS AREA PLAN TYPE 'Z' N-498-B2
SUPERVISOR	GEOMATICS PLAN TECHNICIAN	

<MTO REGION>

N-498-B2.DWG

