

Niagara Escarpment Hearing Office

Case Nos.: 13-028/13-029
(NEC File No.: P/F/2012-2013/081)

Livingston v. Niagara Escarpment Commission

In the matter of an appeal by Barry and Diane Livingston filed April 4, 2013 for a Hearing before a Hearing Officer pursuant to section 25(8) of the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, c. N.2, as amended, with respect to a decision of the Niagara Escarpment Commission dated March 22, 2013, whereby the Commission refused Development Permit application P/F/2012-2013/081 made by Barry and Diane Livingston to import \pm 4700 truckloads of topsoil (\pm 79,100 cubic metres/2,793,390 cubic feet) for the purpose of improving soil quality/agricultural capability, on an existing 18.1 ha (44.7 ac) lot on part Lot 31, Concession 4, WHS, Caledon, Ontario; and

In the matter of a hearing held on August 12, 2013, in the Town of Caledon, Ontario.

Before: Helen Jackson, Hearing Officer

Appearances:

- | | |
|-------------------------------|--|
| Diane and
Barry Livingston | - Appellants, on their own behalf |
| Michael Baran | - Representative for the Niagara Escarpment Commission |

Dated this 30th day of January, 2014.

REPORT TO THE MINISTER OF NATURAL RESOURCES CONFIRMING THE DECISION OF THE NIAGARA ESCARPMENT COMMISSION

Background

[1] On July 6, 2012, Barry and Diane Livingston (the “Appellants”) applied to the Niagara Escarpment Commission (“NEC”) for a development permit pursuant to s. 25(1) of the *Niagara Escarpment Planning and Development Act* (“NEPDA”), to import \pm 4700 truckloads of topsoil (\pm 79,100 cubic metres/2,793,390 cubic feet) for the purpose of improving soil quality/agricultural capability. The topsoil is to be applied to the subject lands at depths ranging from 15.2 to 30.4 cm (6 to 12 inches) and ploughed into existing soils. During the hearing, the Appellants advised that the volume has since been reduced, as described further below (the “Development Permit Application”).

[2] The property is 18.1 hectares (44.7 acres) in size and located at Part Lot 31, Concession 4, WHS, in the Town of Caledon (the “Property”), in the Region of Peel. The Property is designated Escarpment Rural Area under the Niagara Escarpment Plan (“NEP”), and has been owned by the Appellants since 1979.

[3] The NEC decision of March 22, 2013 (the “Decision”), refused the application for the following reasons:

- The proposal is not permitted as a stand-alone land use in the Escarpment Rural Area, nor does it satisfy NEP Objectives; and,
- It has not been demonstrated that the proposal is integral or incidental to an agricultural operation/use.

[4] On April 22, 2013, Mr. and Ms. Livingston appealed the Decision. In their reasons for appeal, the Appellants stated:

- a. We do not feel there is just cause to refuse our application.
- b. There does not appear to be any policy suggesting that the application of topsoil to farmland is not permitted.
- c. The Niagara Escarpment policies talk about protecting prime agricultural lands and maintaining land in its vicinity with only development that is compatible. We are asking to put a covering of topsoil on our agriculture land to increase the fertility of the land, enhance the appearance and help prevent erosion. We do not see how this is going against Niagara Escarpment policy. The Credit Valley Conservation have no objection, the senior by-law officer from the Town of Caledon felt it would improve the land, a soil management engineer from the Ministry of Agriculture felt that topsoil material would improve soil fertility, and several farmers, within a five

mile radius have done topsoil projects on their lands, which has been successful.

- d. The amount of 4700 truckloads..... would drop to approximately 3400 loads. This was not taken into consideration.

Relevant Provisions of the NEP

[5] The following provisions of the NEP are relevant to this proceeding:

The Objectives of the NEP are:

- 1) To protect unique ecologic and historic areas;
- 2) To maintain and enhance the quality and character of natural streams and water supplies;
- 3) To provide adequate opportunities for outdoor recreation;
- 4) To maintain and enhance the open landscape character of the Niagara Escarpment in so far as possible, by such means as compatible farming or forestry and by preserving the natural scenery;
- 5) To ensure that all new development is compatible with the purpose of the Plan;
- 6) To provide for adequate public access to the Niagara Escarpment; and
- 7) To support municipalities within the Niagara Escarpment Plan Area in their exercise of the planning functions conferred upon them by the Planning Act.

1.5 Escarpment Rural Area

Objectives

1. To maintain scenic values of lands in the vicinity of the Escarpment.
2. To maintain the open landscape character by encouraging the conservation of the traditional cultural landscape and cultural heritage features.
3. To encourage agriculture and forestry and to provide for compatible rural land uses.
4. To provide a buffer for the more ecologically sensitive areas of the Escarpment.
5. To provide for the designation of new Mineral Resource Extraction Areas which can be accommodated by an amendment to the Niagara Escarpment Plan.

Permitted Uses

Subject to Part 2, Development Criteria, the following uses may be permitted:

1. Agricultural operations.

...

PART 2 Development Criteria

2.2 General Development Criteria

The objective is to permit reasonable enjoyment by the owners of all lots that can sustain development.

1. Permitted uses may be allowed provided that:
 - a) The long term capacity of the site can support the use without a substantial negative impact on Escarpment environmental features such as contours, water quality, water quantity, natural vegetation, soil, wildlife, population, visual attractiveness and cultural heritage features.
 - b) The cumulative impact of development will not have serious detrimental effects on the Escarpment environment (e.g. water quality, vegetation, soil, wildlife, and landscape).
- ...
2. Any development permitted should be designed and located in such a manner as to preserve the natural, visual and cultural characteristics of the area.

Issues

- [6]
1. Whether the importation of fill (clean topsoil) is a Permitted Use in the NEP Escarpment Rural Area designation under Part 1.5.1: Agricultural operations.
 2. Whether the development permit application for the importation of fill (clean topsoil) accords with NEP General Development Criteria 2.2.

Issue No. 1: Whether the importation of fill (clean topsoil) is a Permitted Use in the NEP Escarpment Rural Area designation under Part 1.5.1: Agricultural operations.

Discussion, Analysis and Findings on Issue No. 1

Evidence

[7] Mr. Livingston testified on behalf of himself and his wife as the Appellants. He described the proposed undertaking whereby clean topsoil is to be brought to their Property, and they would be paid to receive this topsoil. The topsoil is to be provided by Tricon Excavating and the quality of the material is to be tested during Phase I investigations by others.

[8] Mr. Livingston stated that portions of their Property have very little topsoil and that the addition of topsoil would greatly improve the fertility of their land and would help to prevent erosion. The Property is currently used as pastureland for ten cows and one bull, and two Clydesdale horses. The Appellants intend to continue with the same type of low intensity farming after the topsoil is applied.

[9] Michael Baran, an NEC planner and the NEC representative on this file, provided the planning context and opinion. He testified that the Property is designated Escarpment Rural Area, and that agriculture is a permitted use in this designation. Mr. Baran prepared the NEC Staff Report that recommended that the application be refused on the basis that the proposed placement of fill is not permitted as a stand-alone land use in the Escarpment Rural Area, nor is the placement of fill integral or incidental to an agricultural operation.

[10] Mr. Baran testified that the Development Permit Application was circulated to various agencies for their comments. During consultations it was determined that the back portion of the Property is bisected by a creek that is a tributary of the Credit River. This portion of the property has been identified as an Environmental Policy Area (“EPA”) in the Town of Caledon (“Town”) official plan and is regulated by the Credit Valley Conservation Authority (“CVC”). The remainder of the lands are designated Rural Area in the Town Official Plan.

[11] The CVC have requested that a silt fence be installed to ensure no topsoil would be placed at the back portion of the Property within the CVC’s regulated area. The Appellants submitted into evidence a figure marked to show the outline of the Property and the proposed location of the silt fence. Mr. Livingston testified that they intend to comply with the CVC request, and therefore the estimate of the amount of fill that would be imported has been reduced from about 4,700 truckloads of soil to in the order of 3,000 truckloads.

[12] In written correspondence dated October 26, 2012, the Town commented that permitted uses in the Town’s Rural Area are those that are primarily agricultural. In general, the Town Planning staff have no concerns with the placement of fill on lands within the Rural Area designation, with the understanding that the proposed fill is to correct drainage issues on the land to enhance the farming capability. The Town stated that the Property would be viewed as a “commercial fill site” due to the significant proposed fill volume. On that basis, the Town provided the following comments:

1. The applicant shall submit a grade plan prepared by an Ontario Land Surveyor showing existing and proposed grades. The grade plan should provide elevations at least 30 metres onto adjoining properties and include a cross-section plan of the proposed work showing existing and final grades. The plan should also show existing and proposed drainage control measures. A certified professional engineer must certify that the proposed grade plan will not impact adjoining properties. Note: a grade plan will be required to be

submitted once work is completed to certify the work was completed in accordance with the approved grade plan.

2. All grading is to maintain a 3 metre setback from all lot lines.
3. Dust control measures are to be taken at all times during filling operations.
4. The entrance to the fill site is to be monitored during the day and secured when the site is not in operation.
5. All fill is to meet Table 2 of the Ministry of the Environment – Soil, Ground Water and Sediment Standards for Use under Part XV. 1 of the *Environmental Protection Act*.

[13] Mr. Livingston testified that he wished to obtain provisional approval from the NEC before he embarked on these costly studies. However, he testified that he had provided a map to the Town with the proposed haul route. He noted that the comment in the staff report regarding the route along the Trailway and entering off of Mill Street is incorrect and does not apply to his site, and this was agreed to by Mr. Baran.

[14] Don Lobb was qualified by the Hearing Officer as an expert in soil management and soil ecology and testified on behalf of the Appellants. Mr. Lobb visited the site and produced a report with his findings. Mr. Lobb described the land as sloping meadow with forested areas on either side. He testified that the soils are in good condition, likely because the lands have been used for pasture and hay over the last number of years. He testified that there is thin topsoil, and that he observed less topsoil along the side slopes of the fields, likely due to erosion. He testified that the shale bedrock is shallow and does not retain water, and that runoff can be a problem along the soil – rock interface in these conditions. He testified that the addition of topsoil would improve the retention of water in the soil and would add additional organic matter thus improving the productivity of the land and extending the life of the soil.

[15] Mr. Lobb stated that the addition of topsoil is the easiest and most practical way to improve the soil. He testified that this method is preferable to the application of mineral fertilizers, as this method will add organic matter very quickly to the soil. He also stated that the use of legumes to fix nitrogen in the soil (“green manure crops”) is generally used on high tillage fields, and is not applicable to this situation. He stated that the application of livestock manure is a good method to improve the soil, but large amounts would be required over a long period of time in this situation.

[16] Mr. Lobb testified that it is his understanding that the intention is that these lands would continue to be used for hay and pasture. He testified that the property is too

small to be a viable farm unit, but that it is currently being farmed in a responsible manner. He further stated that improving the productivity of these lands would be helpful in regards to the pressing need to increase food productivity for the expanding population.

[17] Mr. Lobb also testified that this is a good use of topsoil, as otherwise the excess topsoil would be dumped on farm fields where there is already a sufficient thickness. He also stated that by maintaining this field as a low intensity meadowland, it improves the vegetative diversity of the area and the habitat for wildlife, as he stated that the greatest wildlife activity normally occurs on the fringes of the forest, and so the greater the fringe area, the more the habitat.

[18] Mr. Lobb also testified that maintaining the lands as good meadowland would maintain the open character landscape of the lands for a longer period of time.

[19] Mr. Lobb further testified that he understood that the CVC would not be involved in permitting or monitoring, but he expected that the Town would be supervising the activity.

[20] The Appellants provided a letter from the Ontario Ministry of Agriculture, Food and Rural Affairs (“OMAFRA”) dated December 24, 2012, which generally supports the addition of topsoil as a method to enhance fertility, but also states that the Appellants should be vigilant regarding the quality of the material before it is applied. The letter further states that manure would also enhance the agricultural capability of the soil and cautions regarding the potential for erosion problems due to the slope of the land. The OMAFRA soil management engineer who wrote the letter indicates that, on the basis of a desk-top review of soils maps, 56% of the lands are high quality Canada Land Inventory (“CLI”) Class 1 and 3 lands, predominately Oneida Clay Loam soil.

[21] Kent Judge, a neighbouring farmer, was called by the Appellants to give evidence regarding his experience with topsoil addition to his land. Mr. Judge lives south of the Property, about one kilometer away, outside of the NEP area. He testified that he has been farming all his life, and currently is farming about 350 acres. Mr. Judge testified in regards to a 12 acre field that had poor drainage. He testified that he had about 1,500 truckloads of topsoil brought into that field last year, and this summer he grew corn on that field. He testified that the conditions of the field had improved following the addition of topsoil and he was very happy with the results. Mr. Judge confirmed that his lands are different than those of the Appellants, as Mr. Judge’s lands are flat whereas the Appellants’ lands are sloping. Mr. Livingston provided photographs that he had taken showing this past summer’s corn crop on that field.

[22] Mr. Judge testified that the placement of fill took 2.5 months from start to finish, and that the deliveries were intermittent, depending on the weather and the availability of the topsoil, and that there were no problems with dust on the road. He stated that he visually checked the loads as they arrived at his property. He said that he relied on the hauling company's word that the fill was clean and not contaminated, and that soil quality issues with respect to contamination were addressed by the Town.

[23] The Appellants named six other farmers within a five mile radius who have had fill brought in and are happy with the results.

[24] Mr. Baran testified on behalf of the NEC. He stated that the purpose of the NEP is "to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment." He followed by describing the Objectives of the NEP, as provided earlier under paragraph 5.

[25] He said that the application was refused because the placement of fill is not permitted as a stand-alone land use in the Escarpment Rural Area, nor is the placement of fill integral or incidental to an agricultural operation, and it does not satisfy the NEP Objectives. He stated the NEP is silent regarding fill and fill importation and does not discuss topsoil with respect to agriculture as a permitted use.

[26] In support of this conclusion, Mr. Baran testified that Ontario Regulation 828/90 made under the *NEPDA* lists the type of activities normally associated with agricultural operations, and this regulation also lists exemptions. The addition of fill is not exempt, as it is not a normal part of agricultural operations. The exceptions are for some horticultural operations where soil is removed over time, such as sod farms, where it is recognized that topsoil replenishment is necessary.

[27] Mr. Baran testified that the NEC supports farming activities and that the NEP has many exemptions for farm activities; however, the placement of fill on agricultural lands is not exempt. His opinion is that the activity that the Appellants wish to undertake is not a normal part of agricultural operations but is more akin to a commercial fill operation, as outlined in the comments from the Town of Caledon to the NEC. He supported this by noting that the Township of Uxbridge defines a commercial fill operation as: "commercial fill operation" means the placing or dumping of fill involving remuneration paid, or any other form of consideration provided, to the owner or occupier of the land, whether or not the remuneration or consideration provided to the owner is the sole reason for the placing or dumping of the fill."

[28] Mr. Baran testified that the NEC is not satisfied that the importation of topsoil is essential to support crops or vegetation on the Appellants' property, as there is evidence of ample growth on the property as it is, and there is the letter from OMAFRA indicating good farming conditions based on the soil classification as Class 1 to 3.

[29] Mr. Baran testified that the proposal does not satisfy NEP Objectives which are to maintain the Escarpment's scenic values, open landscape character and rural land uses. The scenic values can be impacted by the general activities of this proposal, such as the trucks coming and going, and the fill would alter the existing contours.

[30] Mr. Baran spoke to other concerns the NEC has with respect to the proposed undertaking that relate to the quality of the fill; the ability to monitor the project; and the precedent that this approval would set.

[31] Mr. Baran expressed concern that other materials could be brought in with the topsoil, especially since there are such large quantities to be delivered and it is difficult to distinguish topsoil from other fill material. He testified that weeds may be introduced from the fill and this is not the desired type of vegetative diversity that the NEP wishes to achieve.

[32] Mr. Baran testified that the NEC would be responsible for monitoring the undertaking and ensuring compliance. The Town By-laws are not applicable in the NEC's Development Control Area, and since there would be no placement of fill within the EPA area, there would be no involvement of the CVC. Mr. Baran testified that the NEC does not have the resources to do the monitoring or enforcement that would be required.

[33] Mr. Baran testified that the NEC is concerned about the precedent that would be established if this application were approved. He testified that there have been many requests for fill importation, and specifically, both the south abutting neighbour and Brampton Brick have applied for fill importation development permits.

[34] Mr. Baran testified that he had been asked by the NEC to prepare a set of possible conditions for consideration by the NEC if the request were to be approved. These were compiled in an addendum staff report of March 4, 2013. Mr. Baran testified that the conditions he prepared were based on cautionary considerations, and also included conditions that the Town would have included for a fill operation. He testified that NEC staff did not endorse the conditions.

[35] Mr. Livingston testified that he was not in agreement with all the conditions that were presented in the addendum staff report, as they were not practical. For example, Condition 11 does not permit the placement of topsoil in the drainage features;

however, Mr. Livingston stated that this would result in an uneven surface and would present a tripping hazard and therefore be unsafe for horses and cattle. Mr. Livingston also stated that a one year limit to conduct the work was insufficient, given that there would likely be many occasions when soil could not be delivered, due to weather and soil availability. He testified that he did not want the NEC conditions to apply; rather he wished to abide by what he understood the Town's conditions would be for such an activity.

[36] Mr. Baran clarified that the limit of one year was to reduce the time that the community may be exposed to impacts and to reduce the potential for erosion, as the longer the period of time that the operation occurs, the longer the time that erosion may occur. He also stated that the limitation of placing fill in the drains is to ensure that the material does not wash away during storm events.

[37] Mr. Livingston testified that in their discussions, Mr. Baran expressed concern regarding the proposed volume of fill, and as a result, Mr. Livingston testified that he was prepared to significantly reduce the requested amount to three to six inches coverage limited to the front field. In response, Mr. Baran indicated that the NEC could not advise what volume of fill material might be acceptable; however, if it were only in the order of five loads of fill that would be considered differently.

[38] Mr. Livingston testified that the property across the road from him has had numerous loads of fill delivered to their lands. In response, Mr. Baran testified that this is for the purposes of building a berm for noise attenuation, as there are breeding alpacas on that property. Mr. Baran and Mr. Livingston disputed the volume of soil that has been delivered to that property.

Submissions

[39] The Appellants contend that nowhere in the NEP does it say that they cannot import fill. They submit that the farm is not very workable and the addition of topsoil would assist in improving farm productivity. The Appellants state that it is not fair that Mr. Judge is able to accept fill onto his lands whereas they are not, simply because they are within the NEP area. The Appellants also contend they do not understand why the NEC would be so against land improvement, given that the land must remain as farmland in perpetuity.

[40] The Appellants also contend that, since they would be required to expend a significant amount of effort and cost for the project, and they expected that the cost to them (such as engineering studies, fence removal and the like) would exceed the

amount that they would be paid for the fill, therefore the placement of fill in this case should not be considered a commercial fill operation.

[41] Mr. Baran submitted *Township of Uxbridge v. Corbar Holdings Inc. et al*, 2012 ONSC 3527, which found that large scale fill importation is not a normal agricultural practice, and he submitted that this aligns with the position of the NEC that fill importation is not a normal agricultural practice. In addition, Mr. Baran contends that the different rules for lands within the NEP area are necessary in light of its designation as a World Biosphere Reserve.

[42] Mr. Baran pointed out that Mr. Lobb has termed the proposed widespread placement of fill an appropriate and easy method to improve soil fertility. However, he maintains that Mr. Lobb has no previous experience in the importation of topsoil in the NEP area. Mr. Baran disputes Mr. Lobb's testimony that the Town and the CVC would be supervising the activity, stating that this is not the case. He submits that the NEC must monitor compliance with any conditional approval of the Development Permit Application. He states that the NEC does not have the resources to undertake such monitoring.

[43] Mr. Baran contends that, because landowners are being paid to receive large amounts of fill, this leads to suspicions regarding the quality of the fill. He contends that if the fill were of good quality, it would be sold, as good quality topsoil is a valuable product.

[44] Mr. Baran contends that the objectives of the NEP are not met by this proposal, particularly with respect to scenic values. He contends that, when existing contours are altered, this can impact the scenic values. He submits that such changes to the landscape are not incidental to a farming operation. He disagrees with Mr. Lobb's view that it is important that the field be in pasture to maintain the open character of the landscape. Therefore, Mr. Baran contends that Mr. Lobb did not understand the meaning of the term "open landscape" in the context of the NEP.

[45] Mr. Baran submits that it is not necessary to import fill as there are other methods to improve the land, such as removing stones; using green manure, animal manure or mineral fertilizer, and in any case, the importation of fill is not essential or incidental to the continuation of farming of the lands.

Findings on Issue No. 1

[46] As described by Mr. Baran, the application of topsoil on agricultural land has arisen in response to a need by contractors to dispose of excess material and the

willingness of farmers to accept this material for payment and for the beneficial aspects provided by the addition of topsoil and organic matter to their fields. In this case, the Hearing Officer must determine whether the widespread application of topsoil as proposed is a permitted agricultural use.

[47] It is Mr. Lobb's opinion that, in this case, the application of topsoil is the best way of improving soil fertility. Though not explicitly stated, the Appellants are equating the application of topsoil to the lands for the purposes of increasing soil fertility to the application of fertilizer (either mineral, animal, or green), and as such are implying that it is a normal part of agricultural operation or incidental to agricultural use.

[48] An **Agricultural Operation** is defined in the NEP as "the carrying out of an agricultural use" and the definition of **Agricultural Use** is:

the land, building or structure used for the purpose of animal husbandry, horticulture, beekeeping, dairying, fallow, field crops, fruit farming, fur farming, market gardening, maple syrup production, pasturage, poultry keeping, mushroom farming or any other farming use and may include growing, raising, small-scale packing and storing of produce on the premises and other similar uses customarily carried out in the field of general agriculture.

[49] The Hearing Officer finds that there is insufficient evidence to support the proposition that the proposed widespread fill application is a use "customarily carried out in the field of general agriculture".

[50] The Hearing Officer accepts the opinion of Mr. Baran that the proposal is more akin to a commercial fill operation than a normal part of agricultural operation. This finding is made on the basis that there is no mention of the application of fill (or topsoil) within the NEP definition of agricultural use. The Hearing Officer has further considered that the Town has determined that the proposal constitutes a commercial fill operation, and on that basis lists significant requirements for engineering studies, grading plans, and the like. This finding aligns with *Township of Uxbridge v. Corbar, supra*, which found that large scale fill importation is not a normal agricultural practice.

[51] In reaching this conclusion, the Hearing Officer has also considered s. 5 of Ontario Regulation 828/90, which exempts certain classes of development from the requirement to obtain a Development Permit. This section provides an indication that the application of fill is not automatically approved as a class of development for purposes of general agricultural development.

s. 5. The following classes of development, if listed as permitted uses under the land use policies established in the Niagara Escarpment Plan and not in conflict with a development permit issued under the Act, **are exempt from the requirement of obtaining a development permit:**

...

8. The following classes of development for the purposes of general agricultural development:
 - i. **The cultivation of soil**, including the picking and removal of field rocks and stones, **but not including** the stripping, removal or stockpiling of topsoil, earth, rock, sand, gravel or other aggregate material, **the addition of fill** or the construction of a berm.

...

- vi. The spreading of manure and similar farm waste and processed municipal bio-solids in accordance with the *Nutrient Management Act, 2002* and the *Clean Water Act, 2006*.

[52] The Hearing Officer has also considered that there are other methods available to improve the land and, therefore, the application of fill is not essential or incidental to the continuation of farming of the lands.

[53] The Hearing Officer has considered the Appellants' submission that they do not think that they will make a monetary profit from the proposed development. However, the Hearing Officer finds that the fact that they may not make a profit does not change the character of the proposal as a commercial fill operation. It only indicates that this commercial operation may not be financially profitable.

[54] The Appellants also contend that it is not fair that they cannot undertake this type of activity when their neighbours are able to do so. However, the Hearing Officer notes that the Appellants' lands are designated Escarpment Rural under the NEP, and therefore, are subject to the requirements of the NEP.

[55] In conclusion, the Hearing Officer finds that the application of clean topsoil in the significant volumes that are proposed in this application is not a Permitted Use in the NEP Escarpment Rural Area designation under Part 1.5.1.

Issue No. 2: Whether the development permit application for the importation of fill (clean topsoil) accords with NEP General Development Criteria 2.2.

Discussion, Analysis and Findings on Issue No. 2

General Development Criteria 2.2

[56] A Permitted Use is subject to the NEP Part 2 Development Criteria; however, since the Hearing Officer has found that the proposed development is not a permitted use under Part 1 of the NEP, it is not necessary to evaluate whether the use accords with the NEP Part 2 Development Criteria.

DECISION

[57] The Hearing Officer finds that the Decision of the NEC dated March 22, 2013, to refuse development permit application P/F/2012-2013/081, is correct and should not be changed. Therefore, it is confirmed pursuant to s. 25(12) of the *NEPDA*. The appeals are dismissed.

*NEC Decision Confirmed
Appeals Dismissed*

Helen Jackson, Hearing Officer