

Orphan Roads A Guide to Searching Documents in the Ontario Archives to Determine the Status of Abandoned Settlement Roads in Northern Ontario

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A particular event initiated a research project that required a search of documents at the Ontario Archives for evidence of public moneys having been spent on a road in the Kenora District. The historical chain of jurisdiction concerning road administration in Northern Ontario has not been specifically documented before, and should be of assistance in determining the status of some roads for which there is no other documentary evidence.

The purpose of this paper is to provide a guideline for Ontario Land Surveyors in researching documents that could establish the status of roads, which is required by regulation in the conduct of boundary surveys and plan preparation.

Oral history of abandoned roads in Northern Ontario has not been preserved locally as the inhabitants have long since either passed away or moved to more prosperous locales. Staffs of the various ministries of government have no cause to be concerned about these matters, and many of the older staff have retired or passed away as well. Consequently, it is important to record this information for posterity.

The Issue

A property owner decided to close off access to an old settlement road that crossed his land, by erecting a gate at the entrance to the road from the main highway. As a result, the owners of nine farm properties who previously used the road were denied access to their properties. The nine owners do not reside on their respective properties; the lands are now used to harvest timber and for recreational purposes.

The township had been surveyed in the Six-Mile Square Sectional System, Pattern 3, which provides for lots and concessions, but no road allowances.

All of the Crown grants contained the standard 5% reservation for roads.

The records demonstrating that public moneys had been spent on the access road, together with statute labour having been performed, are filed with the Ontario Archives. Land files of record with the Ministry of Natural Resources at Peterborough detail settlement activities on the homesteads, with references to the public road. The record shows that the settlement road was constructed across the nine farm lots to provide access for the respective owners.

Historical Background

A brief review of the history of the township survey systems and the administrative agencies that were responsible for the construction and maintenance of settlement roads is required to outline in a chronological order the events leading to the abandonment of settlement roads, in particular in areas without municipal organization.

Ontario is composed of territories acquired from aboriginal peoples by treaty and purchase. Prior to disposition by the Crown, those territories were subdivided into Townships, with lots and concessions or sections, for the purpose of orderly settlement. Various Township survey systems were employed, generally making provision for road allowances along concession lines and between lots at regular intervals.

For the most part, the road allowance provision was reasonably suitable in Southern Ontario because the physiography is relatively flat. On the other hand, in townships north of the southerly limit of the Precambrian Shield geological terrain, roads were rarely built within the provided road allowances due to the impracticality of

the topography. The Precambrian Shield includes that part of Ontario north of the Trent-Severn Waterway canal system.

By 1860, virtually all of the lands in Southern Ontario had been settled. Because the economy of Canada West (later Ontario) was perceived to be agrarian-based, the Crown commenced the survey and settlement of farm lots on the Precambrian Shield north of the Trent-Severn Waterway and along various colonization roads. Subsequently, all of the remaining lands as far north as the French River, Lake Nipissing and the Mattawa River were surveyed and partially settled under various government programs, utilizing the "1000-Acre Sectional System" of township survey, which incorporated road allowances. The system was discontinued in 1880 at the southerly shores of the French River, Lake Nipissing and the Mattawa River, since roads could not be built within surveyed road allowances because of the broken, rocky terrain. The settlement roads that were built generally deviated from the surveyed road allowances. Examination of Ontario Forest Inventory Mapping and Ontario Base Mapping indicates that less than 10% of the settlement roads were constructed within the road allowances as shown on the plans of survey of the various townships.

The "Six-Mile Square Sectional System" of township survey was adopted by Ontario for the settlement of northeastern and northwestern Ontario. Except for those townships laid out by the Dominion in the Rainy River District, the principle of providing road allowances as part of the Township survey fabric was omitted. As an alternative to designated road allowances, road access was provided by a condition contained in the Letters

Patent, which issued upon completion of settlement duties. Crown grants in those townships excepted all public or colonization roads, or any highways crossing the granted lands, and reserved an undesignated 5% of the granted area for future roads that could be located later by officers of the Crown, usually being the Crown lands agent. Today, in areas organized under municipal jurisdiction, that authority lies with the local municipality. The principle was to position access roads in practical locations on the ground.

There are exceptions. For example, part of the Cochrane to Hearst area, being the "clay belt" left by the post-glacial Lake Ojibway-Barlow, was subdivided following the "1800-Acre Sectional System", which included road allowances as part of the survey fabric. The terrain in that area is relatively flat and, generally, roads could be constructed within the areas provided by survey.

The agrarian settlement schemes on the Precambrian Shield were not successful, as the amount of arable land was not sufficient to support agriculture, and markets were too distant with inadequate transportation infrastructure. The only cash crop for most settlers was the timber on their lands, supplemented by the wages received from timber companies for their labour and use of their horses during winter operations. When all of the timber had been harvested from a settler's land and the timber companies had ceased operations, the settler was faced with farming land that was essentially unsustainable for agriculture. As a result, settlers began abandoning their homesteads and marginal farms. Over time, as the settlers moved away, the roads that were opened up for settlement were left uninhabited and fell into disuse.

In addition, the events of the Second World War attracted farmers of marginal operations to the urban areas to work in the mines, wood industries such as paper mills and saw mills, as well as the war supply industries. Many young men enlisted in the armed



circa 1920

forces and, upon return from overseas, instead of continuing to work and maintain the family homestead, found gainful employment elsewhere.

At the same time that settlers were leaving their farms and homesteads, a reorganization of the Ontario government in 1937 transferred responsibilities for road works to the newly formed Department of Highways in accordance with the Highways Improvement Act. The Colonization Roads Branch and the Northern Development Branch, formerly with the Department of Lands, Forests and Mines, were to be included with the new Department of Highways. Reorganization of the Department of Highways took a long time to implement.

On April 2nd, 1945, Chief Municipal Engineer J. A. P. Marshall made a policy statement on settlement roads by memorandum to District Municipal Engineers (North) regarding "Roads in Territory without Municipal Organization". In brief, the policy statement indicated that statute labour organization would be encouraged with matching funds provided for settlement roads. Uninhabited roads would not be funded.

The fact that public moneys had been spent on roads under previous

programs such as the Colonization Roads Act, the Northern Development Act, the Public Lands Act, the Statute Labour Act, the Mines Act, the Highways Improvement Act and unemployment relief programs during the depression, established the roads in law. Subsequent abandonment of those statutory roads would not alter that status; jurisdiction and control remained with the then Dept. of Highways, now Ministry of Transportation.

Since 1945 the number of roads administered by Statute Labour Boards, now known as Local Roads Boards, has decreased considerably, leaving countless kilometres of abandoned roads, sometimes referred to as orphan roads, without maintenance. However, the old legal maxim "Once a highway, always a highway" must be taken into account until the road has been legally closed.

Sources of Information:

Road Construction and Maintenance by Successive Government Agencies and Archives Recording Indices

- A) Department of Crown Lands:
 - Roads administration:
 - Colonization Roads Branch, 1862 to 1900
 - Record of road construction:



circa 1938

1. Annual reports of the Commissioner of Crown Lands
 2. Archives inventory No. 52
- Original documents and other documents on microfilm
- B) Department of Public Works:
- Roads administration:
Commissioner of Public Works: 1900 to 1919
 - Administered under the Colonization Roads Act
 - Record of road construction:
 1. Annual reports of the Commissioner of Public Works
 2. Archives inventory No. 52
- Hardcopy of documents and other documents on microfilm
- C) Department of Lands, Forests and Mines:
- In 1912 the Northern Development Branch was created as part of the Department of Lands, Forests and Mines. The statute creating the Branch was titled the Northern and Northwestern Development Act, later known as the Northern Development Act.
- In 1919, the administration of the Colonization Roads Branch was transferred from the Department of Public Works to the Department of Lands, Forests and Mines and integrated with the Northern Development Branch.
- The Department of Mines was created in 1920.

Record of Road construction:

1. Annual reports of the Minister of Lands, Forests and Mines 1905-1937
2. Annual reports of the Minister of Northern Development 1914-

1915 and 1925-1937

3. Annual reports of the Minister of Lands and Forests 1921-1937
- 4 Archives inventory No. 52 being the Colonization Roads Inventory
5. Archives inventory RG-14 being the Northern Development Road inventory and correspondence.

Hardcopy of documents and other documents on microfilm.

- D) Department of Mines road administration: Archives inv. No. RG-13.
- E) By Order-In-Council dated May 4, 1936, all road works and other matters connected therewith coming under the Northern Development Branch were transferred to the administration of the Minister of Public Works and Highways from the Minister of Lands and Forests.
- F) The Department of Highways was separated from the Department of Public Works and Highways in 1937. Roads administration: Minister continued to administer the Northern Development Act, the Colonization Roads Act and the Highways Improvement Act. The Department of Highways continued to fund settlement roads and colonization roads.

Record of road construction and maintenance:

Minister of Highways annual reports 1938 - 1948
Archives inventory No. 52

Hardcopy of documents and other documents on microfilm.

Archives inventory No. RG-14

Information Noted in Ministers' Annual Reports

1. Name or other identifier of road and the length constructed or maintained.
2. Classification of road: statute labour or settlers' road.
3. Source of funding: Northern Development Act or Colonization Roads Act.

4. Unemployment relief work on roads.
5. Road works organized according to electoral districts both in Northern Ontario and in northern counties such as Haliburton and Renfrew.
6. Road works funded under the Highways Improvement Act; direct funding to settlers.
7. Road works funded under the Public Lands Act.
8. Mining Roads constructed and maintained.
9. Minister of Northern Development Annual Report 1934: \$190,000 spent on settlers' roads and other roads not including the main highways. The report for 1935 stated that \$98,422 had been spent on settlers' roads and other minor roads.

Information Noted on Hardcopies and Microfilm

1. Administrative instructions to field staff, i.e. Crown Lands Agents, road overseers, Superintendent of Colonization Roads re: location of roads to be constructed or road maintenance. For example, specific instruction issued by the Deputy Minister of Public Works dated September 11, 1907 required all roads laid out in the 640 acre sectional system townships to be 66 feet wide.
2. Road reports submitted by the field staff to the Minister for his information and for inclusion in the annual report.

The Public Accounts of Ontario

All expenses of the government are reported annually by the Office of the Provincial Auditor as administered by the Treasurer. These reports provide documentary evidence of public funds having been spent on colonization roads, northern development roads, settlers' roads, and other roads including unemployment relief works. The specific roads are identified in the reports for the respective departments.

The reports are indexed in the Archives as Government Documents.

Ministry of Natural Resources Land Disposition Files: Additional Documentation on Access Roads

The land file for each Crown disposition is of record with the Land Management Section of the Lands and Waters Branch of the Ministry of Natural Resources at Peterborough.

The files record the application to locate on a property, reports of the crown lands agent on the land clearing progress, buildings being constructed and references to the location of the access road and other improvements required to qualify for letters patent. The performance of statute labour by the locatee on the local road was prerequisite for the issuance of letters patent.

Ministry of Natural Resources: Plans of Settlement Roads

The Office of the Surveyor General of the Min. of Natural Resources at Peterborough has on record plans of survey of settlement roads that were surveyed pursuant to instructions issued by the Surveyor General under direction from the Minister of Northern Development. The surveys were conducted circa 1930. The surveyors were instructed to lay out the roads at a width of 66 feet (1 chain), 33 feet on either side of the centreline of the existing road-

way, disregarding existing fences and other improvements defining occupation.

Researching the Ontario Archives

The Ontario Archives is the custodian of all government documents that are not current and are not required in the conduct of services being delivered. Considering the large volume of government documents along with newspapers, magazines and other publications and private papers that have been indexed, the method of searching must first be learned, which could be time consuming. A list of freelance researchers can be obtained from the Archives.

To learn more about the Ontario Archives, visit the web site:
www.archives.gov.on.ca



Qualifications of Writer

1. 3 years in Ministry of Natural Resources field office - Lands Management and Forestry

2. 27 years with Ministry of Natural Resources as an OLS in all fields of Crown surveys
3. 15 years with Marshall Macklin Monaghan Ontario Land Surveyors, including pipeline and fibre optic cable line surveys across Northern Ontario
4. Grew up on a homestead from 1931 to 1939 in Devitt Township, 20 kilometres east of Hearst Ontario. Father worked on Northern Development and Unemployment Relief funded roads. Most of his time was spent on clearing land, farming and cutting pulpwood. In 1939 he abandoned the homestead and moved to Hearst to work for pulpwood companies.
5. Have observed the wholesale abandonment of homesteads and farms across Northern Ontario. Many of the settlement roads are now overgrown with shrubs and trees while others are travelled but not maintained.