

R. Yurkow) Monday, the 1st day
Deputy Mining and Lands Commissioner) of June, 1992.

IN THE MATTER OF THE CONSERVATION AUTHORITIES ACT

AND IN THE MATTER OF

An appeal to the Minister under section 28(5) of the Conservation Authorities Act against the refusal to permit construction of a residential structure at the premises known municipally as 215 Canboro Street, in the Town of Smithville, in the Township of West Lincoln in the Regional Municipality of Niagara.

B E T W E E N :

WILLIAM VANDEN BRINK and MARIANNE VANDEN BRINK
Appellants

- and -

NIAGARA PENINSULA CONSERVATION AUTHORITY
Respondent

**ORDER ON MOTION FOR
FURTHER SUBMISSIONS ON COSTS**

BACKGROUND

An Order respecting costs in this appeal was made on March 10, 1992. The appellant, not having adequate opportunity to make submissions before the Order issued, brought a motion to make submissions. The motion was granted and submissions were made and considered.

DECISION

The award originally made will stand.

REASONS

The approach of awarding a lump sum for costs as opposed to ordering a taxation is designed to control, in some measure, the time and cost already incurred by both parties. I recognize that, in trying to separate costs for different aspects of the appeal, it is difficult if not impossible to be precise.

In making the award for costs, I was underlining that the appellant's conduct, throughout, was disreputable. There was little in the appellant's behaviour that was honourable or worthy of sympathy. There appeared to be an attempt to achieve his desired result by whatever means. Under the circumstances, the appellant is in a poor position to be asking for the benefit of any doubt that may exist.

The costs awarded are relatively small in relation to the Authority's costs in the appeal. The object of the award was, in part, to allow the Authority to recoup some measure of its costs and, in part, to discourage reprehensible conduct. I am satisfied that the award addresses both of these objectives without imposing a harsh penalty on the appellant.

DATED this 1st day of June, 1992.

Original signed by R. Yurkow

R. Yurkow
DEPUTY MINING AND LANDS COMMISSIONER