



CRC Rockwood Inc. Concerned Residents Coalition

P.O. Box 121. Rockwood ON N0B 2K0

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Ministry of Natural Resources and Forestry
Policy Division
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough ON K9J 8M5

Attention: Katie Rosa, Aggregate Resources Officer, Resource Development Section (by Email: ARARReview@ontario.ca)

Dear Ms. Rosa

Re: A Blueprint for Change: A Proposal to modernize and strengthen the Aggregate Resources Act policy framework (EBR Registry Number 012-5444)

Thank you for the opportunity to comment on the document, **A Blueprint for Change**, regarding proposals to modernize and strengthen the policy framework pertaining to aggregate extraction applications and licences. The following comments are provided by CRC Rockwood Inc. (the Concerned Residents Coalition - CRC), an organization representing citizens in Guelph-Eramosa Township, Halton Region/Town of Milton, and the Town of Halton Hills in regard to an application to establish a limestone quarry—the so-called “Hidden Quarry”—in Guelph-Eramosa Township.

Our comments reflect our previous submission to the Aggregate Resources Act Review Committee as well as the considerable input made by CRC regarding the “Hidden Quarry” application. We are focusing primarily on those issues that pertain to the “Hidden Quarry” application, which is currently before the Ontario Municipal Board, as well as issues that are of interest to many other communities that have been or are confronted with applications such as the “Hidden Quarry.”

I. PREAMBLE

We support the goals of the ARA Review.

The CRC supports the four goals of the ARA Review and the areas for which changes are proposed in the document:

- To strengthen the oversight in the management of aggregate operations;
- To increase environmental accountability for aggregate sites;
- To increase and standardize ARA fees and royalties; and
- To improve information and participation.

While some proposed changes do not, in our view, go far enough, our general observation is that many if not all would at least improve the situation with which CRC and Guelph-Eramosa are currently dealing. We are concerned, however, that a number of issues raised in the ARA Review—including some in CRC’s

submission to the ARA Review Committee—are not addressed in [A Blueprint for Change](#). Our specific comments speak to this concern.

The System is Broken.

The CRC is fully aware of the importance of aggregate resources in Ontario’s economy. However, the fact that applications for the development of new or expanded pits and quarries, particularly in increasingly densely populated Southern Ontario, are almost inevitably contentious, processed in an adversarial climate, and ultimately referred to the Ontario Municipal Board for adjudication, provides ample evidence that the policy framework is seriously flawed. Furthermore, ARA and related Planning Act applications very frequently pit small municipalities and citizen groups with very limited resources against relatively well-resourced aggregate companies—increasingly multinationals—in expensive quasi-judicial processes involving the OMB.

The demands placed on small municipalities are exacerbated by piecemeal applications whereby the character of a region can be changed for the worse by a sequence of debilitating site-by-site applications.

The Hidden Quarry application in Guelph-Eramosa Township is a current case in point. The applicant, James Dick Construction Limited, fresh from having their application for the so-called Rockfort Quarry in Caledon denied by the OMB after a thirteen year process, quickly initiated this new application for a site in a previously undisturbed rural community. The Rockfort case required residents to raise and spend in excess of \$1 million, with similarly significant expenditures by two levels of municipal government, and, indeed, the applicant as well.

Now a similar scenario is unfolding in Guelph-Eramosa Township.

It is clear that a more just, unbiased, efficient, and less costly process is needed to address the province’s need for aggregate resources.

Our comments referencing [A Blueprint for Change](#) speak to these issues.

There is a need to rebalance priorities.

It is not the ARA alone that constitutes the problem; rather, the Provincial Policy Statement, Provincial Standards, Planning Act, as well as the capacity and roles of the regulating Ministries—MNR and MOEC in particular—are all significant factors. Furthermore, aggregate resource management needs to be updated extensively to be harmonized with other current provincial priorities including the Greenbelt, Places to Grow, Source Water Protection and water conservation, and now as we enter 2016, climate change policies and measures.

The degree to which aggregate extraction trumps other priorities, such as the protection of agricultural lands and natural heritage areas, is extremely problematic. We believe that food and water must come first; that is, the protection of aggregate resources is not more

important than the protection of the life-giving natural resources of clean air and water, and our ability to produce food. Southern Ontario is losing farmland, Canada’s best, at a very fast rate and our tree coverage is only half of what is required for water, soil and ecosystem conservation. At a time that the Province of Ontario is bringing more rigorous attention to climate change mitigation, the carbon sequestration capacity of woodlands needs to be factored into land use planning decisions.

A key to rebalancing priorities is to implement appropriate, modern resource management practices for the aggregate industry. The Province needs to maintain a thorough and transparent inventory of aggregate resources and assessment of demand such that applications are measured against market needs. The “no need to show need” provision in the Provincial Policy Statement must disappear.

Furthermore, the costs of externalities—loss of woodland, negative impacts on water resources and natural habitat, damage to municipal infrastructure, negative impacts on health and safety, degradation of agricultural resources, loss of equity and tax assessment in nearby properties—must be fully accounted for.

II. COMMENTS ON A BLUEPRINT FOR CHANGE

Introduction: “Studies have shown that our need for aggregate material is expected to increase over the next twenty years.”

While this statement may be true—subject to the proviso that any extrapolations into the future are speculative at best—there are two equally salient points that should be included. The first is that there are also studies that demonstrate that Ontario’s licensed capacity for aggregate far exceeds its consumption, the conclusion being that there is much opportunity to meet increasing demand without licensing new operations. The second is that many stakeholders, as well as this **Blueprint**, are calling for increased use of recycled aggregate to reduce the need for virgin product. The premise of continuing increases for new material needs to be thoroughly examined in a responsible, unbiased manner.

SECTION 1.0 PROPOSED CHANGES FOR ESTABLISHING NEW SITES

Section 1.1.1 Enhancements to Requirements for Studies and Information

As a general statement, CRC supports the enhancement of requirements for studying impacts on the natural environment, water, cultural heritage, noise, traffic and dust. However, health and safety impact, visual impact and social/economic impact should be added to this list.

With respect to specific proposals made in this Section:

- CRC is conscious of the fact that stresses on water supply are evident in Ontario and that they are likely to increase in intensity as climate change continues to grow. Therefore, we support the proposal to enhance requirements for water impact studies for extraction both above and below the water table. Neutral experts in

hydrogeology and hydrology need to be engaged in establishing terms of reference for such studies.

- Aggregate extraction proposals within the 2-year time of travel zone to municipal wells should be denied. In the increasingly frequent cases of pits and quarries in relatively close proximity to private properties, the same criterion should be applied to domestic wells.
- The thresholds for new traffic studies and new dust studies (100,000 and 500,000 tonnes/year respectively) are too high.
- While CRC supports the proposal for new agricultural impact studies on prime agricultural lands or within prime agricultural areas, we support the request by the Ontario Federation of Agriculture to expand prime agricultural land status to include Class 4 lands. Further, in view of the rapid loss of prime farmland in Ontario, we recommend that no aggregate extraction be permitted on Classes 1 and 2 agricultural lands.
- CRC supports the proposal to require enhanced summary statements for all applications; however, we recommend that summary statements should also be required for water resources and natural environment impacts, economic impacts, and blasting impacts in the case of quarries.
- CRC supports the proposal to require plain language summaries of project proposals and technical studies, although further definition is required to reduce the subjective assessment of what constitutes “plain language.”

As important as the subjects of studies are, so too is the process by which studies are conducted. Currently, the adversarial nature of aggregate applications leads to the applicant’s experts debating the merits of complex technical questions with the “opposition’s” experts, while the commenting agencies typically operate in silos. The result often is that the combined and interactive impacts are not assessed at all. CRC endorses the advocacy by municipalities such as the Region of Halton and the Town of Halton Hills in favour of the use of **Joint Agency Review Teams (JART)** as the standard method of assessing aggregate applications.

Section 1.1.2 Update to Notification, Consultation and Communication Requirements

- CRC supports the proposal for expanded timeframes, notification areas and consultation requirements in general. However, we are concerned about the proposal that “applicants be given new flexibility to provide an extended timeframe for comment” since in many instances, it is in the interests of applicants to restrict comment—as exemplified by the applicant’s efforts to discount citizen comment in the “Hidden Quarry” case. Rather, other stakeholders should have the right to request an extended timeframe.
- There should be no waiver to the requirement to post notice of applications.
- The proposed changes do not include reference to the current 120 m requirement for direct notification of nearby residents, which in our view needs to be increased to the actual zone of influence of the proposed operation.

Section 1.2 Other Provisions Related to Applications

- CRC supports the proposal to require new applications when the applicant is seeking to lower the extraction depth below the water table.
- CRC supports the proposed new requirements for peer reviews of technical studies funded by applicants, given that current Planning Act authority of municipalities to require, as part of their assessment of planning act applications, peer reviews funded directly by the applicant remains in effect.

SECTION 2.0 PROPOSED CHANGES TO THE MANAGEMENT AND OPERATION OF EXISTING AND FUTURE SITES

Section 2.1 Studies, Information, Site Plans and Conditions

- CRC supports the proposed new provision allowing the ministry to require additional studies, information and updated site plans for existing aggregate sites. Host municipalities need to be explicitly involved in this process.
- CRC supports providing government with the new ability to establish conditions on existing aggregate sites related to source water protection plans. We do call, however, for intensive review of the source water protection framework, in particular the impact of aggregate extraction on source water and recharge zone protection, and its revision to address current and future needs and stresses on water resources.

Section 2.3 Changes to Reporting and Record-Keeping Requirements

- While CRC supports the proposal for new reporting requirements for site rehabilitation and for the removal of recycled or blended materials, we believe that, as in all things, “the devil is in the details.” Regarding site rehabilitation, we recommend requirements be included for the progressive rehabilitation of sites within an appropriate timeframe, and that sunset clauses be required for all aggregate applications to ensure that pits and quarries do not morph into permanent industrial sites such as for recycling operations. We also support the requirement to include recycled and blended materials in annual production reports, with the proviso that total tonnages be subject to tonnage fees. The issue of “self-compliance reporting” is more complicated and is addressed below in the context of monitoring and enforcement.
- We are concerned about the use of pits and quarries for recycling and fill, even when the latter is ostensibly for rehabilitation. The quality of fill is an important consideration because of its potential role in groundwater and surface water contamination, and therefore must be strictly regulated and controlled.

Recycling operations, and other industrial processes such as asphalt and ready-mix concrete plants are not suitable uses of pits and quarries in rural areas and must be regarded as industrial operations that must be located in appropriately zoned areas close to the source of recycling feed materials.

- The proposal to streamline and change the frequency of self-compliance reporting raises the issue of regulatory monitoring and enforcement, addressed in reference to Section 2.5. CRC is strongly opposed to any move towards less stringent reporting requirements on the part of aggregate producers.

Section 2.4 Site Plan and Condition Amendments

- CRC is concerned about the potential use of site plan amendments to circumvent more rigorous assessment at the application phase of a pit or quarry. While we agree with the need for clarification, we also recommend that stakeholders such as host municipalities and citizen groups have the same rights to participate in the assessment of amendment requests as they would have in a full application.
- Similar to the point above, while we support efforts to improve the efficiency of assessment and approval mechanisms, we believe that communities must be afforded safeguards against abuse of this provision. At the very least, more detail is required on what would qualify as “minor changes.”

Section 2.5 Improved Enforcement and Administrative Provisions

- CRC supports the proposed revisions to fine structures as a means of enforcing compliance. However, fines alone do not address the need for improved enforcement.
- Similarly, CRC supports efforts to enhance and clarify provisions for compliance inspection and false reporting. The critical issue, in our view, is the serious lack of capacity in the regulating Ministries—MNR and MOEC—to undertake anything close to a suitable level of site monitoring and compliance enforcement.

While larger municipalities, if properly funded to do so, may have the capacity to inspect sites and enforce regulations, many smaller ones such as Guelph-Eramosa do not and therefore rely on the Province for this oversight. Regrettably, Provincial capacity falls well short of the required level. The MNR Guelph District Office has two full-time aggregate inspectors who are responsible for overseeing several hundred aggregate operations located in six different regions and counties. Waterloo Region, for example, has noted that staffing of the Guelph Region Office of MNR is such that “inspection of aggregate operations by Provincial inspectors occurs only once every four or five years or on a complaint-driven basis.” This is clearly insufficient to address concerns in a timely way.

If the Province is serious about protecting the environment and the rights of Ontarians regarding aggregate operation impacts, the regulatory agencies must be resourced to fulfill their responsibilities.

SECTION 3.0 PROPOSED CHANGES TO FEES AND ROYALTIES

- Unquestionably, licensing fees and royalties need to be increased. As Waterloo Region has noted, 11.5¢/tonne is a minute portion of the average \$12/tonne the Region paid for aggregate in 2014. While municipalities are better able to address

this issue than is CRC, our view is that full economic analysis of pit and quarry impacts on host communities needs to be carried out in order to set fair fees and royalties.

III. ISSUES THAT ARE NOT ADDRESSED IN A BLUEPRINT FOR CHANGE

The Roles of MNR and MOECC in application assessment, and site monitoring and enforcement.

Many of the changes proposed in A Blueprint for Change, to be credible, rely on the ability of MNR to administer and enforce applicable regulations and policies, both with respect to new applications as well as to existing operations.

We have noted in Section 2.5 that the monitoring and enforcement capacity of MNR, if Guelph Region is any indication, is woefully inadequate. Although we do not have numbers to substantiate the point, we believe that MOECC is similarly hampered by insufficient manpower to monitor and enforce situations that fall, or should fall, within its purview.

We reiterate here that no amount of tinkering with policies, regulations, language and so on will substantively improve the Province's aggregate extraction practices unless MNR and MOECC, as well as other relevant Ministries such as Labour and Transport, are appropriately resourced to provide rigorous oversight.

There is a second aspect to Ministry roles. The assessment of new applications for licences under the ARA is carried out officially by MNR. However, many of the pertinent issues actually fall within the purview of MOECC—ground and surface water, noise, air quality, as examples. It has been CRC's experience with the "Hidden Quarry" application that commenting agencies including MNR and MOECC have tended to work in silos, resulting in no one agency having the "big picture" perspective. One consequence in this case is that no one has rigorously addressed the very serious issues related to under water blasting in what is essentially an open pit mine.

CRC's view is that the roles of Provincial agencies need to be reviewed and revised to ensure that applications are properly vetted without creating the necessity of time-consuming and expensive involvement from small municipalities and citizen groups. Given a more responsible role from the Province, one might hope that the pervasive involvement of the OMB as the ultimate decision-maker can be reduced.

Pits and Quarries as Interim Land Uses

The potential impact of pits and quarries is often minimized by referring to them as "interim land uses." Aggregate pits and quarries are not an interim land use when weighed against affected human lifetimes, and what often results in permanent transformation of lands into some other form. If municipal approval of rezoning is based on an estimated timeframe, that time frame must be respected. Municipal governments and residents must not live under the shadow of extensions or expansions.

The “Precautionary Principle”

The “Hidden Quarry” application is an example of a proposal to use what is an almost unprecedented technical method of below water blasting at a depth of approximately 30 m below the water table. The “precautionary principle” should be applied in reviewing any new technical approaches to mining and quarrying such as this. The promise of mitigation is not an acceptable standard of operation. No community should be a testing ground. .

Municipal Land Use Planning Responsibilities

Municipalities, especially rural municipalities, must have the resources and time to plan for aggregate extraction, rather than react to proposals. It is prohibitively expensive for many rural municipalities (with small staffs and budgets) to assess an application for aggregate extraction, and to take a case to the OMB when their zoning decision is challenged by an aggregate proponent. The ARA Review recommendations encourage “sound planning” on the part of municipalities. This planning must include the identification of possible aggregate sites which will not be eligible for development given current land use, environmental fragility or significance, or human settlement.

Blasting Impacts

We have noted above that the **Blueprint** does not specifically address blasting in quarries and a concern, and that in the “Hidden Quarry” experience, none of the commenting agencies really wanted to deal with what is in fact a serious and potentially hazardous issue. Regulations must be developed governing minimum set-backs for aggregate sites from other land uses. Given that blast shockwaves can travel more than 3000 metres, that fly rock can travel up to 1500 metres, and that underground water patterns are complex, risks can only be properly “mitigated” by distance. This is especially true in “close-to-market” communities where towns are rapidly expanding, where many rural homes are dependent on wells, where many buildings and houses are century-old and where agricultural use is intense.

Alternate Transportation

The ARA Review Committee recommended that consideration be given to alternate aggregate transportation, but the **Blueprint** does not speak to this issue. And yet, product haulage with its impact on traffic safety, noise levels and dust is an important concern in many applications in Southern Ontario. Proponents may argue that they have a right to use Provincial highways as haul routes, but unfortunately, for many small communities, Provincial highways are also their Main Streets. If not in the ARA, there must be a venue in Provincial policy development that can grapple with the problem of transportation to find solutions that preserve Ontario’s small communities and afford citizens with the safety and transportation access to which they are entitled.

Economic Impact

There is something fundamentally unjust about the pursuit of improved bottom lines and competitive positions by large aggregate companies at the expense of environmental degradation and tangible loss of property equity and quality of life on the part of citizens who reside nearby. Furthermore, small communities such as Guelph-Eramosa Township

that run on modest, tight budgets should not have to incur major expenses as a result of the impact of aggregate applications on their communities and infrastructure. In spite of the fact that the OMB has tended to eschew consideration of economic impacts and property values in hearing aggregate application cases, CRC's view is that Economic Impact is real and that fundamental justice demands that it be considered.

Respectfully submitted on behalf of CRC Rockwood Inc.

A handwritten signature in black ink, appearing to read "D. Tripp". The signature is written in a cursive, slightly slanted style.

Doug Tripp, President