



LPAT Day 21 – June 25, 2019

Day 21 is done. It was CRC's first day in the driver's seat...Chris Barnett was crisp and efficient, and we were buoyed to have him running the show...although there is nothing he can do to stop Mr. White from doing his worst. But Chris doesn't mind – he's seen it all before and he knows when to steam and when to keep cool. What a privilege to work with such a pro. **Note:** I have attached the witness statements for the two natural environment witnesses – they are not too long and will explain better my brief notes below. CRC first engaged them in 2018 because we were convinced that the weaknesses in JDCL studies on the natural environment had to be properly addressed. PS Rick Bonnette was in attendance again.

IMPORTANT HOUSEKEEPING UPDATES:

1. **Hearing times are 9:30 to 4:45** unless otherwise advised.
2. There will be **no Hearing on Friday, June 28 or Monday, July 1.**
3. The **agenda for Wednesday** is at the end of this report.
4. **If you haven't seen these daily jottings, they are all posted at www.hiddenquarry.ca/omb**
5. **[Sign in on our roster here.](#) Note: This is a new link for the week of June 17 and 24.**

Session Content (This is not a detailed report – just a very simplistic record of activity because of the complexity of the issues, technical analyses and regulatory requirements. Any inaccuracies or opinions are Linda Sword's, not CRC's!! These daily journals are all on the CRC website www.hiddenquarry.ca/OMB)

Three CRC experts hit the stand in one day! We began with testimony by **Zack Harris, ecologist** with certification in wetland delineation and assessment and vegetation. He was engaged to assess the natural environment study undertaken by JDCL in 2011/12 and presented earlier by Greg Scheifele. Our youngest expert, he brought fresh air and assurance and knowledge of the latest developments, carrying no burden of outdated practices with him. In his opinion, after review and some site visits, 1) the JDCL expert's characterization and impact assessment of the wetlands was incomplete; 2) the evidence was not transparent, eg. not showing location of identified species on site; 3) he disagreed with the ecological classification of the Allen wetlands (north of and partially on the site); and 4) the study of the PSW, the northwest wetland, lacked detail and full impact assessment. When David White asked Mr. Harris if JDCL had done more studies, would that change anything? No, said Mr. Harris...the provincially significant wetland would still be protected by provincial policy. See attached Z. Harris witness statement for more insights.

Next came **Karl Konze, ecologist with expertise in wildlife** (not fish). His testimony was delayed because C. Barnett had requested that new evidence on amphibian populations in the Allen/DeGrandis ponds and wetlands had been completed last week. Cold weather, wind and rain had delayed the completion of a survey of the frog population – and only last week was Mr. Konze able to complete the study. (JDCL had only done a cursory study.) Chris Barnett suggested to the adjudicator that although this was new evidence, albeit associated with Mr. Konze's witness statement, it should be admitted as pertinent. When Mr. White began to object, Chris B. pointed out that JDCL had successfully brought quite a lot of new information to the Hearing, including changing site plans and last-minute changes in testimony. The study was accepted by the adjudicator. The survey showed that there was a significant amphibian habitat north of the site, requiring protection according to the PPS. Mr. Konze's summary opinion was that the data in the JDCL study was not current, after 9 or 10 years; and that the JDCL conclusions were not consistent with the Public Policy Statement and the Endangered Species Act. On the site and adjacent lands are identified: Little brown bat (endangered ie. highest risk) and the snapping turtle and Eastern Wood PeeWee (both of special concern). All three have nesting habitat on site, ie. significant wildlife habitat. JDCL's Site Plan requires that no tree-cutting take place between October and April – would that help protect the Little Brown Bat? No, Mr. Konze thought that protecting a species by cutting down their habitat was probably not in the best interests of the bat. D. White attempted to make the contamination of the DeGrandis Ponds and upper Trib.B a showstopper (again...), but it was hard to take the question seriously when clearly the frogs were thriving. D. White and K. Konze also had a bird-brained conversation about whether one Eastern Wood PeeWee makes a summer, I mean, significant habitat. One of these does, it turns out, provided it's in the nesting season. Turtles are 'really in trouble' – and here their nesting habitat may be lost with extraction activities. The loss of one snapping turtle sets back regeneration by decades. All in all, JDCL has new challenges, sharply focussed on the incompatibility of mining and species protection. See attached Konze witness statement for details.

Garry Hunter, CRC's hydrogeologist and Site Plan specialist, was going through the routine of stating his education, training and experience when, quite unexpectedly, David White stood up to object...it took a while to understand why. David White found Mr. Hunter's bio contained too many areas of expertise. It's true, the range of his experience is very broad. Mr. White was, in fact, requesting that Hunter's opinion be given less weight than the other 6 because of this broad experience. C. Barnett said that he was clearly qualified as a hydrogeologist for this Hearing. Mr. White then characterized Mr. Hunter as an 'advocate' rather than a neutral witness. He cited a letter Mr. Hunter had written to GET in 2015 addressing a range of issues. C. Barnett pointed out that if Mr. White had wanted to have him removed as a witness, he should have submitted a notice to the Tribunal formally and some time ago. He had not done this. Finally, Mr. White asked if Mr. Hunter had changed the testimony of CRC's ground-penetrating radar expert. In the end, the adjudicator accredited Mr. Hunter and he will testify, but during cross-examination we expect there will be shenanigans. Late today Mr. Hunter finally began to present evidence.

What's on the agenda for Wednesday?

Garry Hunter will continue giving evidence, and will then be cross-examined. Steve Watson, ground penetrating radar specialist, will give testimony at 3 pm, interrupting cross-examination if necessary.