



## **SUMMARY OF CRC'S KEY ARGUMENTS IN THE HIDDEN QUARRY LPAT HEARINGS**

### **OVERVIEW**

At the LPAT (Local Planning Appeal Tribunal) hearings May 21 to July 9, CRC was a Party in opposition to the Hidden Quarry that James Dick Construction Limited (JDCL) has proposed to develop in the 100 acre lot in the northeast quadrant of Sixth Line Eramosa and Highway 7. Our lawyer, Chris Barnett of Osler, Hoskin & Harcourt LLP called testimony from the following witnesses:

- Hydrogeology – Garry Hunter, Hunter & Associates
- Ground Penetrating Radar Survey – Steve Watson, Global GPR
- Natural Environment, Species at Risk – Zack Harris and Karl Konze, Dougan & Associates
- Fish Habitat – Dr. Karl Schiefer, Aquatic Ecologist
- Blasting Impacts – William Hill, William Hill Mining Consultants Ltd.
- Planning – Mark Dorfman, Mark L. Dorfman, Planner Inc.

In addition, Dr. Emil Frind, Professor Emeritus at the University of Waterloo and an internationally recognized expert in groundwater modelling, presented written testimony that was called into evidence.

Through testimony from CRC's expert witnesses and cross-examination of JDCL's witnesses, Mr. Barnett submitted that in spite of owning and assessing the property for more than 20 years, including the past seven years of active analysis and review, **JDCL has failed to satisfy the statutory tests required for approval.**

In particular, he asserted that **JDCL has not “. . . demonstrated that there will be no negative impacts on the [specific adjacent] natural features or on their ecological functions” as required by the Provincial Policy Statement** with respect to:

- i. the provincially significant wetlands (PSW) adjacent to the site (the Allen Wetlands and DeGrandis pond) and the significant wildlife habitat contained in those wetlands;
- ii. the habitat of endangered and threatened species and specie of concern, specifically the Little Brown Bat, Eastern Wood Pee-Wee, and Snapping Turtles;
- iii. the ecological functions of the significant cold water brook trout habitat found in Brydson Creek;
- iv. potential impact on the municipal water supply in Rockwood and private domestic wells.

### **DETAILS**

During the course of hearings, Mr. Barnett pointed out on cross-examination numerous errors and omissions in JDCL's technical reports as submitted to the LPAT, a number of which led to “on the fly” changes to assessments and the project site plans. Errors were identified in on-site hydrogeological data such as “top of bedrock” elevations, the air quality assessment, and noise assessment. CRC's assessment in a number of instances were directly contradictory to those presented by JDCL, such as the very existence of brook trout habitat in the Brydson Creek, the existence of significant wildlife habitat on and adjacent to the site, and potential groundwater interaction between the quarry ponds and Rockwood Well #4 (which is currently under construction).

Mr. Barnett submitted that a number of key issues have not been resolved to comply with the statutory tests, and cannot be resolved prior to the LPAT issuing a decision on the evidence presented in the hearings. These issues are:

- a. Whether it has been demonstrated that there will be no negative impacts on the PSWs adjacent to the proposed quarry or on their ecological functions;
- b. Whether it has been demonstrated that there will be no negative impacts on the significant wildlife habitat contained in those wetlands or on their ecological functions;
- c. That habitat for endangered and threatened species identified on and adjacent to the site will be protected;
- d. That there will be no negative impact on the ecological functions of the significant cold water brook trout habitat in the Brydson Creek;
- e. That there will be no impact on the municipal water supply in Rockwood or on local water wells;
- f. The nature of the overburden and bedrock connections between the upstream De Grandis ponds and the bedrock aquifer flowing through the site;
- g. What the drawdown will be in the PSWs to the north of the site;
- h. What the effect of that drawdown might be on the significant wildlife habitat found in those PSWs;
- i. That adequate setback distances will be applied in blasting operations to protect the safety of people and buildings;
- j. That the significant cultural heritage landscape on the 6<sup>th</sup> Line will be conserved;
- k. That there will be no negative impacts on the agricultural operations in the area.

Mr. Barnett submitted that it is not in the public interest to permit further studies and alterations to the applicant's plans after many years and hundreds of thousands of dollars have been spent responding to the applications. CRC alone will have spent close to \$800,000 over the past seven years. He further argued that the LPAT's confidence in the ability of JDCL to adequately manage issues as they arise, should the quarry be approved, ought to be considered in light of the numerous errors and omissions our testimony has revealed during hearings.

In addressing planning issues, Mr. Dorfman argued that no effort has been taken by the applicant to characterize the community, its "sense of place", and how that would be affected by the proposed, heavy industrial operation.

Dr. Schiefer very aptly described the proposal as follows: **"There are water recharge areas to the north of the site in the PSWs, water discharge into the cold water environment of the Brydson Pond and Creek to the south of the site, and they want to drop a 30 metre deep excavation with heavy industrial operations in between the two! What could possibly go wrong?!"**

CRC was not alone in its opposition to the application. Halton Region also presented compelling arguments regarding hydrogeology, the natural environment and habitat, and traffic and haul route impacts on Highway 7 and the main thoroughfares in Acton and Georgetown. Case law presented by Halton's lawyer, David Germain, established the authority of Halton Hills to constrain truck travel in its downtown areas and the inadequacy of JDCL's traffic safety studies throughout the haul route.

## **CONCLUSION**

After 26 days of hearings, 41 witnesses, and 170 exhibits, the decisions on the applications for rezoning, amendment of the official plan, and an aggregate extraction licence are in the hands of LPAT. We have been advised that it will likely be three or four months before a decision is rendered.