

Subject: Application for a Category 2 Licence under the Aggregate Resources Act

Lot: Part Lot 17 & 18 / Part Lot 1 & 2 Concession 2 NDS / 2

Township of: City of Burlington County of Region of Halton

Objector Name: Halton Region c/o Curt Benson Ph: _____

Address: 1151 Bronte Road, Oakville, Ontario L6M 3L1

Further to your letter of December 14, 2020 regarding this licence application under the
Aggregate Resources Act, I / we, Nelson Aggregate Co. offer the following further information to
(Date)
(Proponent)
address your objections/concerns:

Please see attached letter.

As per Section 4.3.3.2 of the Provincial Standards under the Act, please be advised that after review of this additional information you, the objector, have until August 15, 2022 to respond to the Ministry of Northern Development, Mines, Natural Resources and Forestry and the applicant at the addresses shown below, with recommendations that may resolve the objections.

These recommendations must be delivered personally or by registered mail within the above-noted deadline or it will be deemed that there is no longer a valid objection.

Yours truly,

Quinn Moyer, Nelson Aggregate Co.
(Name of Applicant or Consultant on behalf of Applicant)

Signature: 

Date: June 29, 2022

This form has been modified at the request of Nelson Aggregate Co. with agreement from NDMNRF to allow for electronic mail submissions (email) to both of the following email addresses. Delivery by email will be considered a valid form of delivery:
Email: ARAapprovals@ontario.ca
Email: nelsonara@mhbcplan.com

Ministry of Northern Development, Mines, Natural Resources and Forestry
Office Address: Integrated Aggregate Operations Section
300 Water Street, Peterborough, Ontario K9J 3C7

Attention: Cally Manning
Email Address: ARAapprovals@ontario.ca

Name of Applicant or Consultant: Nelson Aggregate Co.
Address: c/o MHBC - 113 Collier Street
Barrie, Ontario L4M 1H2

Attention: Nelson Aggregate Co.
Email Address: nelsonara@mhbcplan.com



June 29, 2022

City of Burlington
Jamie Tellier
426 Brant St., P.O. Box 5013
Burlington, Ontario L7R 3Z6

Halton Region
Curt Benson
1151 Bronte Road
Oakville, Ontario L6M 3L1

Niagara Escarpment Commission
Debbie Ramsay
232 Guelph St.
Georgetown, Ontario L7G 4B1

Conservation Halton
Leah Smith
2596 Britannia Road West
Burlington, Ontario L7P 0G3

Dear Sir/Madam:

RE: Nelson Aggregate Co. Burlington Quarry Extension – Response to Letter of Objection under the Aggregate Resources Act

During the Aggregate Resources Act (ARA) consultation period for Nelson Aggregate Co. (Nelson) Burlington Quarry Extension application the Niagara Escarpment Commission, Region of Halton, City of Burlington and Conservation Halton submitted an objection letter. Each of these agencies are part of the Joint Agency Review Team (JART).

Since receipt of the objection letter in 2020, Nelson has been actively participating in the agency and public review of the application. As a result of this review, Nelson has made numerous revisions to the application in an effort to resolve concerns.

This letter is intended to provide you with an update on the Burlington Quarry Extension ARA application, including a response to your objection letter.

This letter is being sent now, since Nelson is required to fulfill Section 4.3.3.2 of the Provincial Standards, under the ARA. This section requires Nelson to provide not only a response/recommendation to resolve objector comments but also to advise that you that you have until August 15, 2022 to respond with recommendations that may resolve your objection to both the Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNRF) and Nelson at the following addresses. Under the ARA only a 20 day response period is required which would have ended on July 25th. Nelson has consulted with NDMNRF and extended this period to August 15, 2022 to provide you some additional time to respond.

As noted in the enclosed form, these recommendations must be delivered: personally or by registered mail or by electronic mail to the addresses below on or before August 15, 2022 or it will be deemed that you no longer have a valid objection.

HEAD OFFICE

2433 No. 2 Sideroad, Burlington, Ontario, L7P 0G8
Telephone: 905-335-5250 1-800-263-6320 Fax: 905-332-4484



Ministry of Northern Development, Mines,
Natural Resources and Forestry
Integrated Aggregate Operations Section
300 Water St,
Peterborough, ON K9J 3C7
Attention: Cally Manning
ARAapprovals@ontario.ca

Nelson Aggregate Co.
c/o MHBC
113 Collier Street
Barrie, Ontario, L4M 1H2
Attention: Nelson Aggregate Co.
nelsonara@mhbcplan.com

Update on the Aggregate Resources Act Application

Since the conclusion of the Burlington Quarry Extension ARA consultation process in December 2020, Nelson has made numerous changes to the application in an effort to resolve public and agency comments.

The following is a summary of the major changes to the application and a list of updated technical information that has been provided since December 2020:

- License boundary area has been reduced by 1.5 hectares;
- Extraction area has been reduced by 2.8 hectares;
- Additional field work and site investigations were completed including surveying wetland and woodland boundaries with the government agencies;
- Setbacks adjacent to certain environmental features have been increased;
- Berms have been relocated adjacent to certain natural heritage features to provide increased natural buffer areas;
- A woodland in the West Extension that was proposed for extraction is now protected;
- A tree protection detail / fencing plan has been developed to protect adjacent woodlands;
- The West Extension rehabilitation plan has been modified to improve connectivity between natural heritage features;
- Additional noise, dust and blasting controls have been included on the ARA Site Plans to minimize impacts on surrounding residents;
- Additional mitigation measures have been included on the ARA Site Plans to protect species at risk and fish habitat;
- Tree planting densities and monitoring requirements have been increased on the ARA Site Plans for progressive and final rehabilitation;
- Submission of an updated Adaptive Management Plan to enhance monitoring, mitigation and reporting requirements to protect water resources, water dependant natural heritage features and private residential wells;
- Updated the ARA Site Plans for the Extension and Existing Quarry to reuse the agricultural soils from the South Extension to create an equivalent agricultural area in the existing Burlington Quarry;
- Completed additional soil testing on the proposed West Quarry Extension to confirm the soils are not prime agricultural soils;

- Submission of a Wetland Characterization Report prepared by Earthfx, Savanta and Tatham Engineering, March 2021 to document the feature, potential impacts and proposed mitigation;
- Submission of a Watercourse Characterization Report prepared by Earthfx, Savanta and Tatham Engineering, April 2021 to document the feature, potential impacts and proposed mitigation;
- Submission of a Safety Review prepared by True North Safety Group, June 2021;
- Submission of an updated Blast Impact Assessment prepared by Explotech, June 2021;
- Submission of an updated Noise Impact Assessment prepared by HGC, November 2021;
- Submission of an updated Cultural Heritage Impact Assessment prepared by MHBC, May 2022;
- Submission of an updated Visual Impact Assessment prepared by MHBC, May 2022;
- Submission of an updated Financial Impact Study prepared by Altus Group, September 30, 2021;
- Submission of updated Burlington Quarry Extension Site Plans prepared by MHBC. Several updates were completed and the current version is dated March 2022;
- Submission and circulation of the proposed ARA Site Plan Amendment for the Existing Burlington Quarry to integrate with the proposed Burlington Quarry Extension. Since submission of the application the proposed Site Plans have been updated and the current version is dated February 2022; and
- Submission of detailed responses to the Joint Agency Review Team (JART) comments (e.g., archeological, blasting, traffic, registered agreements & reference plans, visual impact, cultural heritage, financial, groundwater, surface water, natural heritage, and noise).

A copy of Site Plans for the proposed Burlington Quarry Extension and Burlington Quarry, the updated technical reports and JART responses can be found at: <https://www.mtnemoquarrypark.com/copy-of-technical-documents>. In addition, a copy of the existing approved Site Plans and the water resources permit for the existing quarry have been posted on the website.

JART Process

The Niagara Escarpment Commission, Region of Halton, City of Burlington, and Conservation Halton submitted objection letters noting that JART's review of the application was on-going and identified a series of concerns based on their initial review.

These items related to potential effects on natural heritage features and function; connectivity between natural heritage features; impacts on fish habitat; insufficient detail related to impacts to natural heritage features and key hydrologic features; insufficient cumulative impact assessment; extent of study area; potential effects on groundwater and surface water resources; potential impact of the quarry on nearby communities including private wells; suitability of the progressive and final rehabilitation plan; potential effects on agricultural lands; net financial impact; haul routes and truck traffic; and cultural heritage impacts.

Since the JART review process began Nelson has also been working other agencies, utility corporations, and Indigenous communities on the review of the application. This review addresses many of the comments raised by JART and the following is a summary:

Fish Habitat

The Department of Fisheries and Oceans (DFO) is the regulatory agency responsible for fish habitat. Nelson has worked directly with DFO on the review of its application. Attached is a letter from DFO dated June 23, 2021 confirming that the application will not result in harmful alteration, disruption, destruction of fish habitat (See **Tab 1**).

Agriculture

Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) is the provincial agency responsible for agriculture resources. Nelson has worked directly with OMAFRA on the review of its application. Attached is a letter dated February 7, 2022 confirming that there are no outstanding comments on the application (See **Tab 2**).

Species at Risk

Ministry of Environment Conservation and Parks - Species at Risk (MECP SAR) is the regulatory agency responsible for Species at Risk. Nelson has worked directly with MECP SAR on the review of its application. Attached is an email dated March 14, 2022 confirming that there are no outstanding concerns in relation to Species at Risk (See **Tab 3**). Also attached is an email from MECP dated April 19, 2022 confirming they have no additional comments on the AMP (See **Tab 3**).

Water Resources

Ministry of Environment Conservation and Parks (MECP) is the regulatory agency responsible for ground water and surface water resources. Nelson has worked directly with MECP on the review of its application. Attached is an email dated September 8, 2021 confirming that MECP has no further comments at this time (See **Tab 4**). It is understood that if the Aggregate Resources Act Licence is issued, a Permit to Take Water and Environmental Compliance Approval from MECP will be required. Nelson will be required to operate in accordance with those permits to ensure the protection of groundwater and surface water resources, including private wells.

Cultural Heritage Resources

Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) is the provincial agency responsible for cultural heritage resources. Nelson has worked directly with MHSTCI on its application. Attached are letters dated November 19, 2004 (MOC), February 4, 2021 and May 14, 2021 confirming that MHSTCI has no outstanding concerns related to cultural heritage resources (e.g. archaeology, built heritage resources and cultural heritage landscapes). See **Tab 5**.

Natural Heritage Resources and Aggregate Resources

The Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNRF) is the provincial agency responsible for the natural heritage features and functions and the regulatory agency responsible for mineral aggregate operations. Nelson has worked directly with NDMNRF on its application including the finalization of the ARA Site Plans and the AMP to ensure that quarry has been minimize impacts on surrounding community and ensure no negative impacts on surrounding natural heritage features. Attached is a letter dated June 15, 2022, confirming NDMNRF has no outstanding concerns related to the application (See **Tab 6**).

Indigenous Communities

a) Six Nations of the Grand River

Nelson has worked directly with Six Nations of the Grand River on the review of its application. Attached is a letter dated March 16, 2021 confirming that Six Nations of the Grand River have no further concerns regarding the application (See **Tab 7**).

b) Mississaugas of the Credit First Nation

Nelson has worked directly with the Mississaugas of the Credit First Nation on the review of its application. Attached is an email dated March 18, 2021 confirming that the Mississaugas of the Credit First Nation have no further concerns regarding the application (See **Tab 8**).

Utility Corporations

As part of the application, Nelson has consulted directly with Sun-Canadian Pipe Line Co. Ltd; Hydro One Networks and Burlington Hydro. Sun-Canadian Pipe Line Co. Ltd and Hydro One Networks did not have any concerns with the proposed application. Burlington Hydro did submit comments on the ARA application. Attached is a letter from MHBC dated June 29, 2022 to Burlington Hydro confirming the application will not result in any impacts to Burlington Hydro infrastructure and services (See **Tab 9**).

JART Technical Review

The JART process is designed to be an open and transparent review process to streamline the review and avoid duplication. It is to be an iterative process between JART and the applicant to identify technical issues and discuss potential approaches to resolve these items. Since submission of the application in April 2020, Nelson has been requesting the ability to meet with JART and the peer reviewers to present details related to the application and have technical discussions with the reviewers.

From Nelson's perspective the JART process has not been efficient. To date, JART has charged Nelson over \$400,000.00 for its technical review of the application, which is over and beyond the \$333,711.26 of application fees submitted to the Region of Halton, City of Burlington and Conservation Halton. Despite numerous requests for meetings with JART, technical meetings have only occurred with JART on the following dates:

- October 21, 2021 – meeting regarding natural environment and water;
- November 9 & 24, 2021 - site visit to provide the JART technical reviewers a tour of the Existing Quarry and Proposed Burlington Quarry Extension;

- November 12 & 15, 2021 - meeting regarding the groundwater and surface water model
- December 3 & 9, 2021 - site visits to complete staking of the dripline;
- December 7, 2021 - meeting regarding baseline conditions; infiltration ponds; and integration of the natural environment and water reports;
- February 15, 2022 - meeting regarding infiltration ponds;
- May 12, 2022 - meeting regarding baseline conditions;
- May 17, 2022 – meeting regarding natural environment;
- May 18, 2022 – meeting regarding integration of natural environment and water reports; and
- May 19, 2022 – meeting regarding infiltration pond.

As part of the JART process, Nelson has received technical comments from JART and the peer reviewers. From Nelson's perspective many of the comments were a result of the technical reviewers not fully understanding the details of the application; were extremely repetitive; beyond the applicable policy requirements and beyond the regulatory authority of JART. To date, Nelson has provided a formal written response to all of JART comments received. The following is a chronology of the JART comments received and Nelson's response:

1. Agricultural

- JART comments February 4, 2021.
- Nelson provided a response June 27, 2022.

2. Agreement and Reference Plan

- JART provided comments February 2, 2021.
- Nelson provided a response June 28, 2021.

3. Air Quality

- JART provided comments May 25, 2021.
- Nelson provided a response July 20, 2021.
- JART provided additional comments January 18, 2022.
- Nelson provided a response February 8, 2022.

4. Adaptive Management Plan

- JART provided comments February 18, 2021.
- Nelson provided a response June 27, 2022.

5. Archaeology

- JART provided comments January 14, 2021.
- Nelson provided response June 16, 2021.
- JART provided further comments December 9, 2021.
- Nelson provided a response June 27, 2022.

6. Blasting

- JART provided comments January 29, 2021.
- Nelson provided a response June 18, 2021.
- JART provided additional comments on November 29, 2021.
- Nelson provided a response June 27, 2022.

7. Cultural Heritage

- JART provided comments January 14, 2021.
- Nelson provided JART a response June 30, 2021.
- JART provided additional comments December 9, 2021.
- Nelson provided a response June 27, 2022.

8. Financial Impact Study

- JART provided comments February 11, 2021.
- Nelson provided a response July 5, 2021.
- Nelson submitted an updated financial impact assessment on September 30, 2021.
- JART provided additional comments February 25, 2022.
- Nelson provided a response June 27, 2022.

9. Hydrogeological Study

- JART provided comments February 18, 2021.
- Nelson provided a response July 16, 2021.
- JART provided with additional comments February 4, 2022.
- Nelson provided a response June 27, 2022.

10. Natural Environment

- JART provided comments February 18, 2021.
- Nelson provided a response July 16, 2021.
- JART provided additional February 2, 2022.
- Nelson provided a response June 27, 2022.

11. Noise

- JART provided comments August 6, 2021.
- Nelson provided a response dated November 16, 2021.
- JART provided additional comments May 12, 2015.
- Nelson provided a response June 27, 2022.

12. Surface Water

- JART provided comments February 18, 2021.
- Nelson provided a response July 16, 2021.

- JART provided additional comments February 4, 2022.
- Nelson provided a response June 27, 2022.

13. Rehabilitation

- JART provided comments February 18, 2021.
- Nelson provided a response June 29, 2021.

14. Transportation

- JART provided comments February 12, 2021.
- Nelson provided a response June 24, 2021.
- JART provided additional comments December 9, 2021.
- Nelson provided a response June 27, 2022.

15. Visual Impact Study

- NEC on behalf of JART comments December 14, 2020.
- Nelson provided a response June 30, 2021.
- NEC on behalf of JART provided additional comments December 1, 2021.
- Nelson provided a response June 27, 2022.

Additional Items

In the agency ARA objector letters the following additional items were raised:

1. Changes proposed to the existing quarry

Since conclusion of the ARA consultation period in December 2020, Nelson submitted and circulated the proposed ARA Site Plan Amendment for the Existing Burlington Quarry to integrate with the proposed Burlington Quarry Extension. Since submission of the application the proposed Site Plans have been updated and the current version is dated February 2022. The proposed ARA Site Plans for the Existing Burlington Quarry include additional operational restrictions and a revised rehabilitated landform taking into account the technical recommendations from our consultants.

2. Request for virtual public meeting related to the ARA application

Nelson understands the agencies raised this issue with NDMNRF and NDMNRF confirmed that Nelson completed the ARA consultation process in accordance with provincial requirements. At the request of the Region of Halton, Nelson participated and presented details of the ARA application at a virtual meeting on December 10, 2020. Furthermore, on November 25, 2021 Nelson hosted a virtual public information meeting for the ARA objectors to present a summary of the major changes to the ARA application and answer questions. This meeting also included a summary of the proposed changes to the Existing Burlington Quarry Site Plans.

3. Requirement for approval of a Niagara Escarpment Plan Amendment, Niagara Escarpment Development Permit, Region of Halton Official Plan Amendment and City of Burlington Official Plan Amendment prior to issuance of an ARA License

Nelson understands that NDMNRF cannot issue a license until the above noted applications are approved. These applications were filed in April 2020. Based on the provisions of the Niagara Escarpment Planning and Development Act an Ontario Land Tribunal hearing is already required before approval of the Niagara Escarpment Plan Amendment can be considered. As a result, Nelson has met with the agencies and advised them that this summer Nelson will be taking steps to refer all of the applications noted above to the Ontario Land Tribunal so the applications can be consolidated to avoid multiple hearings for the same proposal. Nelson has advised the agencies that the scheduling of the Ontario Land Tribunal will take some time and Nelson remains committed to work with the Niagara Escarpment Commission, Region of Halton, City of Burlington and Conservation to resolve and / or scope any outstanding issues.

Conclusion

Nelson believes it has had regard for both public and agency comments received during the ARA consultation process. Throughout the process we have listened, completed additional technical information and made revisions to our application to respond to the issues raised.

If the Niagara Escarpment Commission, Region of Halton, City of Burlington and Conservation Halton have any questions please do not hesitate to contact the undersigned to arrange a meeting.

Yours sincerely,



Quinn Moyer
Nelson Aggregate Co. - President

c.c. Cally Manning, NDMNRF
Kyle Plas, City of Burlington
Gordon Dickson, City of Burlington
John Stuart, City of Burlington
Joe Nethery, Halton Region
Janice Hogg, Halton Region
Betty Pakulski, Halton Region
Joe Muller, Niagara Escarpment Commission
Jessica Bester, Conservation Halton

Tab **1**



Fisheries and Oceans
Canada

Pêches et Océans
Canada

Ontario and Prairie Region
Fish and Fish Habitat Protection Program
1028 Parsons Road SW
Edmonton, Alberta T6X 0J4

Région de l'Ontario et des Prairies
Programme de protection du poisson et de son habitat
1028 rue Parsons Sud-Ouest
Edmonton, Alberta T6X 0J4

June 23, 2021

Your file *Voire référence*

Our file *Notre référence*

20-HCAA-02208

Nelson Aggregate Co.
ATTENTION: Quinn Moyer
President
Head Office
2433 No. 2 Sideroad
P.O. Box 1070
Burlington, ON, L7R 4L8

**Subject: Quarry Expansion, Unnamed Tributary of Willoughby Creek,
Burlington, ON – Implementation of Measures to Avoid and Mitigate the
Potential for Prohibited Effects to Fish and Fish Habitat**

Dear Quinn Moyer:

The Fish and Fish Habitat Protection Program (the Program) of Fisheries and Oceans Canada (DFO) received your proposal on October 27, 2020. We understand that you propose to:

- Expand the existing Burlington Quarry operation on lands located to the west and south of the existing quarry which will require the decommissioning of a series of golf course irrigation channels and ponds, including removal and relocation of introduced Largemouth Bass found in ponds;
- Construct a 3.5 m high vegetated berm;
- Replace the existing operable weir with a permanent weir structure at the same elevation;
- Install a new bank at the current outflow location;
- Install a diversion pipe at the edge of the existing weir pond to divert water into newly created ponds on the western side of the west extension;
- Divert flows from catchment S101 directly into the upstream end of the unnamed tributary of Willoughby Creek; and,
- Install a water outfall and settling pond along the edge of Mount Nemo Tributary of Grindstone Creek

Canada

Our review considered the following information:

- Request for Review form dated October 26, 2020;
- Letter RE: Burlington Quarry Extension Project Fish Habitat Assessment in Proposed Extension Area authored by Savanta Inc. submitted to DFO dated August 14, 2020;
- Level 1 and Level 2 Hydrogeological and Hydrological Impact Assessment Report of the Proposed Burlington Quarry Extension, Nelson Aggregates Co. prepared by Earthfx and dated April 28, 2020;
- Level 1 and Level 2 Natural Environment Technical Report Proposed Burlington Quarry Extension, Nelson Aggregates Co. prepared by Savanta Inc. and dated April 2020;
- Burlington Quarry Extension Surface Water Assessment Nelson Aggregate Co. prepared by Tatham Engineering and dated April 2020;
- Memorandum on Blast Vibration and Water Overpressure at Adjacent Waterbodies, prepared by Explotech and dated January 19, 2021; and,
- Email correspondence between Clayton James (DFO) and Noel Boucher (Savanta) on February 18, June 16, and June 21, 2021.

Your proposal has been reviewed to determine whether it is likely to result in:

- the death of fish by means other than fishing and the harmful alteration, disruption or destruction of fish habitat which are prohibited under subsections 34.4(1) and 35(1) of the *Fisheries Act*; and
- effects to listed aquatic species at risk, any part of their critical habitat or the residences of their individuals in a manner which is prohibited under sections 32, 33 and subsection 58(1) of the *Species at Risk Act*.

The aforementioned outcomes are prohibited unless authorized under their respective legislation and regulations.

To avoid and mitigate the potential for prohibited effects to fish and fish habitat (as listed above), we recommend implementing the measures listed below:

- Plan in-water works, undertakings and activities to respect timing windows to protect fish and fish habitat;
 - Limit the duration of in-water works, undertakings or activities so that it does not diminish the ability of fish to carry out one or more of their life processes.
- Maintain an appropriate depth and flow (i.e., base flow and seasonal flow of water) for the protection of fish and fish habitat
- Limit the impacts to fish in the use of explosives to the footprint of the works, undertaking or activity.
- Capture, relocate and monitor for fish trapped within isolated, enclosed, or dewatered areas;

- Dewater gradually to reduce the potential for stranding fish;
- Relocate any fish as per applicable permits for capturing and relocating fish; and,
- Fish rescue should be undertaken under the supervision of a qualified aquatic environmental specialist.
- Use temporary cofferdams and/or diversion channels to isolate a section of a watercourse or water body in order to conduct works, undertakings and activities in the dry while maintaining the natural downstream flow:
 - Use the code of practice for temporary cofferdams and diversion channels when using temporary cofferdams and/or diversion channels.
- Screen intake pipes to prevent entrainment or impingement of fish;
 - Use the code of practice for water intake screens; and,
 - Monitor water intake screens regularly for fish impingement and entrainment.
- Limit impacts on riparian vegetation to those approved for the work, undertaking or activity
 - Limit access to banks or areas adjacent to waterbodies
 - Prune or top the vegetation instead of grubbing/uprooting
 - Limit grubbing on watercourse banks to the area required for the footprint of works, undertaking or activity
 - Construct access points and approaches perpendicular to the watercourse or waterbody
 - Remove vegetation selectively and in phases
 - Re-vegetate the disturbed area with native species suitable for the site
- Operate machinery in a manner that minimizes disturbance to the watercourse bed and banks.
- Avoid disturbing or removing aquatic vegetation, natural wood debris, rocks, sand or other materials from the banks, shoreline or the bed of the water body.
- Salvage, reinstate or match habitat structure (e.g., large wood debris, boulders, instream aquatic vegetation/substrate) to its natural state.
- Develop and implement a Sediment Control Plan to minimize sedimentation of the waterbody during all phases of the work, undertaking or activity
 - Conduct all in-water works, undertakings or activities in isolation of open or flowing water to reduce the introduction of sediment into the watercourse
 - Schedule work to avoid wet, windy and rainy periods (and heed weather advisories)
 - Regularly inspect and maintain the erosion and sediment control measures and structures during all phases of the project
 - Use biodegradable sediment control materials whenever possible
 - Remove all exposed non-biodegradable sediment control materials once site has been stabilized
 - Operate machinery on land, or from barges or on ice
 - Use methods to prevent substrate compaction (e.g., swamp mats, pads)

- Monitor the watercourse to observe signs of sedimentation during all phases of the work, undertaking or activity and take corrective action
- Dispose and stabilize all dredged material above the high water mark of nearby waterbodies to prevent entry in the water
- Develop and immediately implement a response plan to prevent deleterious substances from entering a water body:
 - Stop works, undertakings and activities in the event of a spill of a deleterious substance;
 - Immediately report any spills (e.g., sewage, oil, fuel or other deleterious material), whether near or directly into a water body;
 - Keep an emergency spill kit on site during the works, undertakings and activities;
 - Contain any water with deleterious substances;
 - Ensure clean-up measures are suitably applied so as not to result in further alteration of the bed and/or banks of the watercourse;
 - Clean-up and appropriately dispose of the sediment-laden water and water contaminated with deleterious substances;
 - Maintain all machinery on site in a clean condition and free of fluid leaks;
 - Wash, refuel and service machinery and store fuel and other materials for the machinery in such a way as to prevent any deleterious substances from entering the water;
 - Dispose of all waste materials (e.g., construction, demolition, commercial logging) above the ordinary high water mark to prevent entry into the water body; and,
 - Plan activities near water such that materials such as paint, primers, blasting abrasives, rust solvents, degreasers, grout, poured concrete or other chemicals do not enter the watercourse.
- Aquatic invasive species are introduced and spread through transporting sands and sediments and using contaminated construction equipment. To prevent the spread of aquatic invasive species during construction in aquatic environments:
 - Clean, drain and dry any equipment used in the water; and,
 - Never move organisms or water from one body of water to another.

Provided that you incorporate these measures into your plans, the Program is of the view that your proposal is not likely to result in the contravention of the above mentioned prohibitions and requirements.

Should your plans change or if you have omitted some information in your proposal, further review by the Program may be required. Consult our website (<http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>) or consult with a qualified environmental consultant to determine if further review may be necessary. It remains your responsibility to remain in compliance with the *Fisheries Act*, the *Species at Risk Act* and the *Aquatic Invasive Species Regulations*.

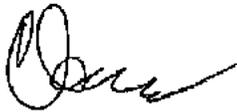
It is also your *Duty to Notify* DFO if you have caused, or are about to cause, the death of fish by means other than fishing and/or the harmful alteration, disruption or destruction of fish habitat. Such notifications should be directed to (<http://www.dfo-mpo.gc.ca/pnw-ppe/contact-eng.html>).

We recommend that you notify this office at least 10 days before starting your project by sending an email to DFO.OP.10DayNotification-Notification10Jours.OP.MPO@dfo-mpo.gc.ca and that a copy of this letter be kept on site while the work is in progress. It remains your responsibility to meet all other federal, territorial, provincial and municipal requirements that apply to your proposal.

Please note that the advice provided in this letter will remain valid for a period of 1 year from the date of issuance. If you plan to execute your proposal after the expiry of this letter, we recommend that you contact the Program to ensure that the advice remains up-to-date and accurate. Furthermore, the validity of the advice is also subject to there being no change in the relevant aquatic environment, including any legal protection orders or designations, during the 1 year period.

If you have any questions with the content of this letter, please contact me at (587) 338-9714 or by email at Clayton.James@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Yours sincerely,



Clayton James
Senior Biologist
Mining, Oil & Gas - South
Fish and Fish Habitat Protection Program

Cc: Brandi Mogge (DFO)
Noel Boucher (Savanta Inc.)
Mary Dillon (MNRF)

Tab **2**

Ministry of Agriculture, Food
and Rural Affairs

Ministère de l'Agriculture,
de l'Alimentation et des Affaires
rurales

6484 Wellington Rd. 7, Unit 10
Elora, ON, N0B 1S0
Tel: (519) 846-0941

6484 chemin Wellington 7, Bureau 10
Elora, ON, N0B 1S0
Tél.: (519) 846-0941

February 7, 2022

Brian Zeman, President
MHBC Planning Limited
113 Collier Street
Barrie, Ontario, L4M 1H2

Re: Burlington Quarry Extension - Category 2, Class A Licence Application under the *Aggregate Resources Act* – Part Lot 17 & 18, Concession 2 NDS and Part Lot 1 & 2, Concession 2, City of Burlington (Geographic Township of Nelson) Region of Halton .

Burlington Quarry *Aggregate Resources Act* (License Nos. 5499 and 5657) Site Plan Amendment Application – Part Lot 1 & 2, Concession 2, City of Burlington (Geographic Township of Nelson) Region of Halton .

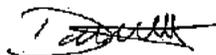
Mr. Zeman,

The Ministry of Agriculture, Food and Rural Affairs (OMAFRA) is in receipt of Nelson Aggregate's response, dated February 2, 2022, for the proposed Burlington Quarry Extension license application and the associated plan amendment for the existing Burlington Quarry. The response includes updated site plans (February 2022 revisions) for the existing quarry and the proposed extension.

OMAFRA staff appreciates the project team's attention to our comments. Please note that the updated site plans have addressed our outstanding comments on the license application and the plan amendment. OMAFRA staff have no further concerns and we withdraw our objection to the proposed Burlington Quarry Extension license application. When the information becomes available, we would appreciate if the final version of the site plans could be provided for our files.

OMAFRA staff would be pleased to discuss the contents of this letter with the project team. If you have any questions, please contact me at david.marriott@ontario.ca or 519-766-5990.

Regards,



Rural Planner, OMAFRA
1 Stone Road West,
Guelph, ON, N1G 4Y2

cc: Chloe Spear, MHBC

Tab **3**

From: McAllister, Aurora (MECP) <Aurora.McAllister@ontario.ca>
Sent: Monday, March 14, 2022 11:37 AM
To: Catton, Shannon <scatton@geiconsultants.com>
Subject: [EXT] Notes from Friday's call

Hello Shannon,

As promised, here are my notes from our call on Friday (I think I captured everything but if I forgot something, let me know):

- No changes to water levels in the wetlands / vernal pools that have been mapped as Jefferson Salamander regulated habitat are anticipated as a result of quarry development.
- Wetland hydroperiod and shallow groundwater monitoring is being undertaken at all vernal pools on the property by the South Extension, including the vernal pools that have been mapped as regulated habitat. At least 3 additional years of monitoring will be undertaken to establish existing baseline conditions for the wetlands and vernal pools in this area.
- Wetland hydroperiod monitoring in the vernal pool located within wetland 13015 (confirmed spotted salamander breeding pond) will commence in 2022. At least 3 years of monitoring will be undertaken to establish baseline conditions.
- Under Section 7 of the Adaptive Management Plan (Version 2.0) several of the wetlands are described as being regulated habitat for Jefferson Salamander and Jefferson Salamander dependent unisexuals based on historical data. Although the salamander records associated with the ponds are older, there is no information that suggests that these two ponds located on the adjacent property are no longer habitat for these species. Please remove the reference to 'historical data'.
- I can confirm that there are no outstanding concerns in relation to species at risk.
- Notes in relation to Species at Risk Bats, Barn Swallow and Butternut have been included in the revised Site Plan.
- No impacts to habitat for Jefferson Salamander and Jefferson-dependent unisexuals are anticipated, therefore no authorization under the Endangered Species Act in relation to these species would be required in order to proceed with the proposed quarry development. I can provide formal correspondence confirming this once the AMP has been finalized.

Kind regards,

Aurora

Aurora McAllister
Management Biologist
Permissions & Compliance | Species at Risk Branch
Ministry of the Environment, Conservation & Parks

From: McAllister, Aurora (MECP) <Aurora.McAllister@ontario.ca>
Sent: Tuesday, April 19, 2022 10:30 AM
To: Catton, Shannon <scatton@geiconsultants.com>
Cc: Ivanov, Oleg (NDMNRF) <Oleg.Ivanov@ontario.ca>
Subject: [EXT] RE: Finalize wording and contents of AMP



Hello Shannon,

I have looked through the revised AMP. Thank you for changing the wording in relation to endangered salamander habitat under section 7.1 (Wetland Features).

I do not have any other comments on the AMP.

Kind regards,

Aurora McAllister
Management Biologist
Permissions & Compliance | Species at Risk Branch
Ministry of the Environment, Conservation & Parks

Tab **4**

From: Thompson, Scott (MECP) <Scott.G.Thompson@ontario.ca>
Sent: September 8, 2021 10:03 AM
To: Tecia White <tecia@white-water.ca>
Cc: 'dirk@earthfx.com' <dirk@earthfx.com>; Shulyarenko, Alexander (MECP) <Alexander.Shulyarenko@ontario.ca>; Aslanyan, Mihran (MECP) <Mihran.Aslanyan@ontario.ca>; Belayneh, Ted (MECP) <Ted.Belayneh@ontario.ca>
Subject: FW: MECP Response -- Nelson Aggregate Co.- Response to MECP (Aggregate Resources Act License Application)

Hello Tecia.

Re: Technical Support review of reports- Thank you for your reply to our comments dated August 23, 2021. Please note that we do not have any further comments to add at this time.

Regards,

Scott Thompson
Senior Environmental Officer
Ministry of the Environment, Conservation and Parks
Halton Peel District Office
4145 North Service Road
Burlington, Ontario
L7L 6A3

 (905) 334-9533

Fax (905) 319-9902

Email scott.g.thompson@ontario.ca

Internet: www.ene.gov.on.ca

Spills Action Centre 1-800-268-6060

We want to hear from you. How was my service? You can provide feedback at 1-888-745-8888.

Tab **5**

Ministry of Culture Ministère de la Culture400 University Ave. 4th Fl.
Toronto, ON M7A 2R8400 Ave. University, 4. étage
Toronto, ON M7A 2R8

Heritage & Libraries Branch, Heritage Operations Unit

Tel: (416) 314-7143 Fax: (416) 314-7175

November 19, 2004

Steve Strong
Aggregate Technical Specialist
AURORA DISTRICT
50 Bloomington Rd W
Aurora, ON L4G 3G8

Dear Mr. Strong,

RE: Recommendation of Clearance of Archaeological Resource Concerns, Nelson Aggregate Quarry Expansion, Lot 17 and 18, Concession 2 NDS, Geographic Township of Nelson, City of Burlington, Regional Municipality of Halton, MCL File 24AG006

This Ministry has reviewed the reports prepared by Archaeologix Inc. for the Stages 1, 2, 3, and 4 assessment of the above-noted property. The Stages 1, 2 and 3 report (Licence/PIF # P001-042 and P001-054) details the assessment of 200-acre parcel of land and notes that five as yet undocumented archaeological sites were identified as a result. Of these, it was recommended that Location 1 (AiGx-238), Location 2 (AiGx-239) and Location 4 (AiHx-240) be subject to Stage 4 mitigation. In the Stage 4 report, (Licence P001), dated August 2004, it was indicated that the archaeological sites identified as Location 1 (AiGx-238), Location 2 (AiGx-239) and Location 4 (AiHx-240) have been mitigated and are no longer a planning concern. Consequently, it is recommended that the subject property be cleared of further archaeological concern. This Ministry concurs with this recommendation.

Given the above, this Ministry is satisfied that concerns for archaeological resources have been met for those lands identified in Figure 3 of the above-noted Stage 1, 2 and 3 report and as illustrated in the Burlington Quarry Expansion site plan prepared by MHBC, Job No. 9135B Nelson Burlington Quarry Exp. (Burlington-Halton). This site plan was not dated.

As per Section 48 (1) of the *Ontario Heritage Act* and Ontario Regulation 170/4, this letter confirms that this Ministry has no further concerns for the archaeological sites documented within the subject property.

If deeply buried cultural remains (including human remains) are discovered during construction activities, this office should be notified immediately.

This letter addresses technical clearance only.

If you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



Shari Prowse
Heritage Planner

c. Jim Wilson, Archaeologix Inc.
Wm. Tom Palko, Nelson Aggregate Co.

Ministry of Heritage, Sport, Tourism, and
Culture Industries

Archaeology Program Unit
Programs and Services Branch
Heritage, Tourism and Culture Division
401 Bay Street, Suite 1700
Toronto ON M7A 0A7
Tel.: (249) 885-1567
Email: Palge.Campbell@ontario.ca

Ministère des Industries du patrimoine, du sport, du
tourisme et de la culture

Unité des programme d'archéologie
Direction des programmes et des services
Division du patrimoine, du tourisme et de la culture
401, rue Bay, bureau 1700
Toronto ON M7A 0A7
Tél. : (249) 885-1567
Email: Palge.Campbell@ontario.ca



Feb 4, 2021

Nimal Nithiyantham (P390)
Golder Associates Ltd.
100 Scotia Whitby ON L1N 8Y6

**RE: Review and Entry into the Ontario Public Register of Archaeological Reports:
Archaeological Assessment Report Entitled, "Stage 1-2 Archaeological
Assessment Proposed West Extension of the Burlington Quarry, Part of Lots 1 and
2, Concession 2, Geographic Township of Nelson, Halton County, City of
Burlington, Regional Municipality of Halton, Ontario", Dated Sep 15, 2020, Filed
with MHSTCI Toronto Office on Oct 14, 2020, MHSTCI Project Information Form
Number P390-0329-2019, MHSTCI File Number 0011253**

Dear Mr. Nithiyantham:

This office has reviewed the above-mentioned report, which has been submitted to this ministry as a condition of licensing in accordance with Part VI of the *Ontario Heritage Act*, R.S.O. 1990, c 0.18.¹ This review has been carried out in order to determine whether the licensed professional consultant archaeologist has met the terms and conditions of their licence, that the licensee assessed the property and documented archaeological resources using a process that accords with the 2011 *Standards and Guidelines for Consultant Archaeologists* set by the ministry, and that the archaeological fieldwork and report recommendations are consistent with the conservation, protection and preservation of the cultural heritage of Ontario.

The report documents the assessment of the study area as depicted in Map 5 of the above titled report and recommends the following:

- 1) Inglehart-Harbottle (AiGx-462): Per the Rural Historical Farmsteads bulletin, given less than 80% of the site's occupation dates to before 1870, the site has no further cultural heritage value or interest; Stage 3 archaeological assessment is not recommended.
- 2) The project area be considered free from any further archaeological concerns.

Based on the information contained in the report, the ministry is satisfied that the fieldwork and reporting for the archaeological assessment are consistent with the ministry's 2011 *Standards and Guidelines for Consultant Archaeologists* and the terms and conditions for archaeological licences. This report has been entered into the Ontario Public Register of Archaeological Reports. Please note that the ministry makes no representation or warranty as to the completeness, accuracy or quality of reports in the register.

Should you require any further information regarding this matter, please feel free to contact me.

Sincerely,

Paige Campbell
Archaeology Review Officer

cc. Archaeology Licensing Officer
Quinn Moyer, Nelson Aggregates Co
City of Burlington City of Burlington, City of Burlington - Planning

¹ *In no way will the ministry be liable for any harm, damages, costs, expenses, losses, claims or actions that may result: (a) if the Report(s) or its recommendations are discovered to be inaccurate, incomplete, misleading or fraudulent; or (b) from the issuance of this letter. Further measures may need to be taken in the event that additional artifacts or archaeological sites are identified or the Report(s) is otherwise found to be inaccurate, incomplete, misleading or fraudulent.*

**Ministry of Heritage, Sport,
Tourism and Culture Industries**

Programs and Services Branch
401 Bay Street, Suite 1700
Toronto, ON M7A 0A7
Tel: 416.768.7553

**Ministère des Industries du Patrimoine,
du Sport, du Tourisme et de la Culture**

Direction des programmes et des services
401, rue Bay, Bureau 1700
Toronto, ON M7A 0A7
Tél: 416.768.7553



May 14, 2021

EMAIL ONLY

John Stuart, MCIP, RPP
Niagara Escarpment Commission
232 Guelph Street
Georgetown, ON L7G 4B1
John.Stuart@ontario.ca

MHSTCI File : 0013835
Subject : Proposed Niagara Escarpment Plan Amendment PH 219 20
Applicant : Nelson Aggregates Co.
**Location : Part Lots 1 & 2, Concession 1 NS, Part Lots 2, 3 & 4 RP20R7439, Part Lots 1 & 2, Concession 2 NS, Part 1 & 2, Concession 3 NS, Part Lots 17 & 18, Concession 2, NDS
City of Burlington, Ontario**

Dear Mr. Stuart:

Thank you for providing the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) with the Request for Comments for the above-referenced Niagara Escarpment Plan Amendment. MHSTCI's interest in the Niagara Escarpment Plan Amendment process project relates to its mandate of conserving Ontario's cultural heritage, which includes:

- Archaeological resources, including land and marine;
- Built heritage resources, including bridges and monuments; and,
- Cultural heritage landscapes.

The archaeological assessment reports prepared for the properties subject to the proposed quarry expansion have been completed to the point of no further archaeological concern, and have been reviewed to the satisfaction of MHSTCI archaeological review staff. The Cultural Heritage Impact Assessment Report prepared in support of the proposed amendment (prepared by MHBC, dated April 2020) finds no potential impacts on local built heritage resources and cultural heritage landscapes, and we have no concerns with the content or recommendations of this report.

As such, we have no objection to the proposed amendment.

Thank you for consulting MHSTCI on this proposed application. If you have any questions or require clarification, do not hesitate to contact me.

Sincerely,

Dan Minkin
Heritage Planner
dan.minkin@ontario.ca

Tab **6**

June 15, 2022

Nelson Aggregate Co.
Att: Tecia White
2433 No. 2 Sideroad
P.O. Box 1070
Burlington ON, L7R 4L8
e-mail: tecia@white-water.ca

Subject: *Aggregate Resources Act* (ARA) Licence Application - 626477
Nelson Aggregate Co. (Burlington Quarry Extension)
Class "A", Category 2 – Quarry Below Water
Pt. Lots 17 & 18, Conc. 2 NDS, and Pt. Lots 1 & 2 Conc. 2
Geographic Township of Nelson, City of Burlington, Halton Region

Dear Tecia White:

In accordance with the policies and procedures established under the *Aggregate Resources Act* (ARA), staff of the Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR) have reviewed the aforementioned licence application, including the draft site plan and related background reports. At the conclusion of the initial notification and 45-day consultation period, NDMNR registered an official objection to the application based on Hydrogeological, Adaptive Management Plan, Summary Statement, Natural Environment and Site Plans components, as well as required changes to the adjacent licences 5499 and 5657.

NDMNR staff have subsequently reviewed the response letters and documents as outlined below. It is also noted that additional dialogue and emails have occurred following the outlined submissions, and the most recent NDMNR response (March 7, 2023) that contribute to this correspondence.

The documents included in the responses that have been reviewed include:

- Nelson Aggregate Co. – Burlington Quarry Extension
Aggregate Resources Act (ARA) Licence Application – 626477
OUR FILE 9135D, including Cover letter and Appendices A through E, Dated March 23, 2022
- Preliminary Adaptive Management Plan, Burlington Quarry Extension, Nelson Aggregate Co. Dated March 2022 and received March 31, 2022.
- Email from Chloe Spear titled: RE: Nelson – Burlington Quarry Extension Response to NDMNR March 7, 2022 letter, and relating to updated significant woodland mapping and legend.

- Preliminary Adaptive Management Plan, Burlington Quarry Extension, Nelson Aggregate Co. Dated May 2022 and received May 10, 2022
- Updated Site Plans dated March 22, 2022 – submitted to NDMNRF with woodland mapping corrected May 10, 2022.
- Site Plan e-mail from Brian Zeman dated June 9, 2022 with revised site plan wording for Site Plan pg 2 of 4 - Extraction Notes – Phase 3 – Note A.
- Earthfx Inc. Memorandum – dated May 29, 2022 (Deep Pond Simulation Results)
- Earthfx Inc. MNR Technical Discussion – Medad Valley Follow-up (May 20, 2022 presentation)
- Preliminary Adaptive Management Plan, Burlington Quarry Extension, Nelson Aggregate Co. Dated June 2022, received June 10, 2022

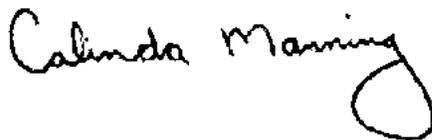
Based on the abovementioned documents and corresponding discussions, this letter confirms that the NDMNRF no longer has outstanding concerns or objections to this licence application. That being said, we remind you that prior to the Ministry being able to move the application forward with any decisions, we will require proof of Zoning, Niagara Escarpment Commission / Plan approval, indigenous consultation determined as being completed and all considerations for the adjacent licences (5499 and 5657) amendment application(s) be satisfied with the Ministry.

We also note that any further changes to the site plan and accompanying documents (Adaptive Management Plan etc.) that may be required due to ongoing consultation with other parties will need to be reviewed with our Ministry.

Additionally, it should be noted that NDMNRF's review of the Adaptive Management Plan was strictly involving the sections applicable to our Ministry's interests. We did not review and are not commenting on the sections related to Ministry of Environment, Conservation and Park's (MECP) interests such as potential impacts to water supply wells, quality of water discharge, species at risk, etc.

If you have any questions, or require additional information, please contact me at calinda.manning@ontario.ca, or by telephone at 807-620-6334.

Sincerely,



Calinda Manning
Aggregate Specialist
Integrated Aggregate Operations Section

cc. Brian Zeman, MHBC Consulting
Shannon Calton, Savanta
Graham Buck, Planning Ecologist
Oleg Ivanov, Hydrogeologist
Quinn Moyer, Nelson Aggregates

Tab **7**



March 16, 2021

via email

Nelson Aggregates
P.O. Box 1070,
Burlington, Ontario, L7R 4L8

Re: Nelson Aggregates Burlington Quarry Expansion,

Six Nations of the Grand Rivers' Consultation and Accommodation Process (CAP) Team would like to thank you for consulting with us on the above project. We appreciate the time you took to meet with us and to ensure that our concerns regarding the Burlington Quarry Expansion project were adequately addressed.

We currently have no further concerns regarding this project.

Regards,

Robbin Vanstone

Consultation Supervisor,
Six Nations of the Grand River.

Tab **8**

From: Megan DeVries <Megan.DeVries@mncfn.ca>
Subject: RE: Letter Surrounding MNCFN Consultation.....
Date: March 18, 2021 at 1:40:52 PM EDT
To: Ron Gersh <ron@theccsgroup.ca>
Cc: Mark LaForme <Mark.LaForme@mncfn.ca>

Hi Ron,

I am available until 3:30pm today. I can be reached on my cell at 289-527-2763. However, we generally do not provide letters of "clearance" from our Nation. Our email below communicating that we have no further concerns is usually all that is necessary.

Regards,
Megan.

From: Ron Gersh <ron@theccsgroup.ca>
Sent: Thursday, March 18, 2021 12:23 PM
To: Megan DeVries <Megan.DeVries@mncfn.ca>
Subject: Re: Letter Surrounding MNCFN Consultation.....

Hi Megan,

I hope all is well and you're having a good day. I'm wondering if you have a minute for me to discuss the e-mail below.

Let me know either way.

Best Regards,

Ron Gersh
Principal
TheCCSGroup
5 Lawrie Road,
Vaughn, ON, L4J 9E7
(b) 416.944.8555 Ext. 1
(c) 416.219.9634
(e) ron@theccsgroup.ca



On Mar 16, 2021, at 3:33 PM, Ron Gersh <ron@theccsgroup.ca> wrote:

Hi Megan,

I hope all is well and you're having a good day. Nelson just received a letter from Six Nations for our consultation process with this community, and we noticed we didn't can official letter from MNCFN. Any possibility we can get a letter from MNCFN regarding the e-mail below?

Let me know either way.

Best Regards,

Ron Gersh
Principal
TheCCSGroup
5 Lawrie Road,
Vaughn, ON, L4J 9E7
(b) 416.944.8555 Ext. 1
(c) 416.219.9634
(e) ron@theccsgroup.ca

Good morning Ron!

Our Field Archaeologist, Adrian Blake, had an opportunity to review the updated Stage 1/2 report last week, so this is perfect timing! We have no concerns with the revised report at this time.

Please remember that any future archaeological or environment fieldwork on the property will require FLR participation.

Sincerely,
Megan.

Megan DeVries, M.A.
Archaeological Operations Supervisor

Tab 9



KITCHENER
WOODBRIDGE
LONDON
KINGSTON
BARRIE
BURLINGTON

June 29, 2022

Vladimir Gomez-Carballo
Burlington Hydro
1340 Brant Street
Burlington ON
L7R 3Z7

Dear Mr. Gomez-Carballo:

**RE: Nelson Burlington Quarry Extension
Response to ARA Objection Letter
OUR FILE 9135D**

Thank you for the Burlington Hydro letter of May 10, 2021 regarding Nelson Aggregate Co. (Nelson) proposed Burlington Quarry Extension. On behalf of Nelson thank you for providing drawings regarding Burlington Hydro infrastructure in the area.

In response to the comments received by Burlington Hydro, we note the following:

- The proposed project will not require an extension of hydro services. There are no buildings, structures or processing areas within the proposed Burlington Quarry Extension;
- The proposed extraction area and berm configuration will not impact the existing poles and hydro lines. See attached figure;
- Nelson has also confirmed that the proposed truck crossing on No. 2 Sideroad will not impact the height of the hydro line as trucks can safely cross underneath the existing hydro line; and
- If the project is approved, there will be some houses / structures that are proposed to be demolished. Nelson is aware of the requirements to contact Burlington Hydro prior to such removal to ensure proper disconnects are completed.

This letter is being sent now, since Nelson is required to fulfill Section 4.3.3.2 of the Provincial Standards, under the Aggregate Resources Act (ARA). This section requires Nelson to provide not only a response/recommendation to resolve objector comments but also to advise that you that you have until August 15, 2022 to respond with recommendations that may resolve your objection to both the Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR) and Nelson at the following addresses. Under the ARA only a 20 day response period is required which would have ended on July 25th. Nelson has consulted with NDMNR and extended this period to August 15, 2022 to provide you some additional time to respond.

As noted in the enclosed form, these recommendations must be delivered: personally or by registered mail or by electronic mail to the addresses below on or before August 15, 2022 or it will be deemed that you no longer have a valid objection.

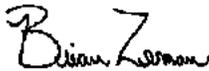
Ministry of Northern Development, Mines, Natural Resources and Forestry
Integrated Aggregate Operations Section
300 Water St,
Peterborough, ON K9J 3C7
Attention: Cally Manning
ARAapprovals@ontario.ca

Nelson Aggregate Co.
c/o MHBC
113 Collier Street
Barrie, Ontario, L4M 1H2
Attention: Nelson Aggregate Co.
nelsonara@mhbcplan.com

Prior to submitting this letter we did attempt to arrange a meeting with Burlington Hydro to discuss. If Burlington Hydro would like meet to discuss this response, please don't hesitate to contact the undersigned. Thank you again for your interest in the application and we hope this letter and attached figure addresses Burlington Hydro comments.

Yours truly,

MHBC



Brian Zeman
President

cc. *Cally Manning, Ministry of Northern Development, Mines, Natural Resources and Forestry*
Quinn Moyer, Nelson Aggregates
Peter Graham, Nelson Aggregates



August 12, 2022 - BY EMAIL

Quinn Moyer
Nelson Aggregate Co.
2433 No. 2 Sideroad, P.O. Box 1070 Burlington,
ON L7R4L8.
c/o MHBC
113 Collier Street
Barrie, ON L4M 1H2
nelsonara@mhbcplan.com

AND

Ministry of Natural Resources & Forestry (MNRF)
Attention: Cally Manning
Integrated Aggregate Operations Section
4th Floor S, 300 Water Street
Peterborough, ON K9J 3C7
ARAApprovals@ontario.ca

Dear Mr. Quinn Moyer and Ms. Cally Manning:

RE: Confirmation of Objection to Application for a Quarry License under the *Aggregate Resources Act* and response to “Nelson Aggregate Co. Burlington Quarry Extension – Response to Letter of Objection under the *Aggregate Resources Act*” from Nelson Aggregates dated June 29, 2022 (“General Response Letter”)

Aggregate Resources Act (“ARA”) application for a Class A, Category 2 (Quarry Below Water) License.

Environmental Registry of Ontario REF #: 019-2698

Part Lot 17 & 18, Concession 2 NDS

Part Lot 1 & 2, Concession 2, City of Burlington, Region Of Halton

Niagara Escarpment Commission Files:

NEPA PH 219 20

DPA H/E/2020-2021/108

This letter confirms the objection of the Niagara Escarpment Commission (“NEC”) to the forgoing quarry application and addresses Nelson’s General Response letter.

The General Response Letter is a general reply to all four government and agency members of the Joint Agency Review Team (JART), not to the original NEC letter of objection. As such, the General Response Letter does not directly address the concerns specified in our December 14, 2020, Letter of Objection (subsequently referred to as “our objection letter”). As a result, this letter and reply reiterates the NEC’s original objections, and seeks to indicate whether they have been addressed by the applicant, in addition to identifying any further issues that have arisen.

Original Objections of the Niagara Escarpment Commission

As stated in our objection letter, the NEC objected to the approval of the quarry license application for the reasons set out below. This letter confirms these outstanding objections.

1. *Pursuant to Section 24 (3) of the Niagara Escarpment Planning and Development Act (NEPDA) which provides:*

No building permit, work order, certificate or licence that relates to development shall be issued, and no approval, consent, permission or other decision that is authorized or required by an Act and that relates to development shall be made, in respect of any land, building or structure within an area of development control, unless the development is exempt under the regulations or,

- (a) a development permit relating to the land, building or structure has been issued under this Act; and*
- (b) the building permit, work order, certificate, licence, approval, consent, permission or decision is consistent with the development permit. 1999, c. 12, Sched. N, s. 4 (9).*

The NEC maintains that until such time that an NEC Development Permit is issued, any approval or licence under the Aggregate Resources Act being contemplated would be premature as the lands are subject to NEC Development Control established by O.Reg 826/90, as amended. NEC Development Permit Application H/E/2020-2021/108 is currently being processed in conjunction with the Niagara Escarpment Plan Amendment (NEPA) application PH 219 20. NEC Staff participate in the Region of Halton Joint Agency Review Team (JART) that is convened to review complex aggregate applications. As this process progresses through technical review, and as the NEPA and DPA applications are circulated for comment, NEC Staff will endeavor to provide updates to MNR Staff on any substantial developments.

2. *At this time, NEC Staff are of the opinion that, based on a preliminary review of the technical studies, the applicant has provided insufficient detail to demonstrate conformity with the policies of the Niagara Escarpment Plan (NEP) 2017. A number of conformity issues have been identified including, but not limited to, the following:*
 - a. *Cumulative impacts associated with the current extraction operation and recreation use are not well assessed or discussed within the context of a continued and expanded extraction operation. They are also not well expressed through the proposed rehabilitation plan. Cumulative impacts associated with the impact on groundwater relative to the existing quarrying operation have not been discussed; the NEP requires a proposal have regard for multiple or successful development that*

may have occurred or are likely to occur. The data provided to establish baseline groundwater and surface water is not sufficient to afford a fulsome view of past impacts to water resources that may have resulted from the existing extraction operation.

- b. *The scope of the assessment of key natural heritage features (KNHF) and key hydrologic features (KHF), including their connectivity, is limited to 120 m of the lands. Connectivity, considering the movement of native plants and animals across the landscape includes KNHFs & KHFs within 240 m of each other as provided by the NEP (2017). In some instances, connecting features are proposed to be removed and KNHFs & KHFs identified for protection become isolated.*
- c. *Impacts to critical fish habitat as a result of proposed changes to surface and ground water, as well as proposed blasting, are not well explored in the technical submission. In addition, the extent of critical fish habitat on site, and in proximity to the site has not been confirmed by the Department of Fisheries and Oceans (DFO).*
- d. *The submission has not been adequately assessed from a cultural heritage perspective. No consultation with Indigenous communities was conducted despite the area being identified as being within traditional territory of the Haudenosaunee and Anishinaabe communities. More information is required on mitigation for the future protection of built cultural heritage located on the proposed southern extension lands. Findings from the conducted archaeology studies and visual impact assessment study have not been incorporated into the cultural heritage study in discussion of cultural heritage landscapes. A portion of the western expansion lands has not yet been assessed for archaeological resources.*
- e. *The proponent has not adequately demonstrated the appropriateness of the proposed progressive and rehabilitation plan. The proposed rehabilitation plan focuses on a specific after-use instead of considering the past and current context of the subject lands from a natural heritage, hydrologic feature, prime agricultural, or open landscape character perspective. NEC Staff recognize the effort by the proponent to consider integration with NEPOSS through the rehabilitation plan, however it is predominantly focused on a recreational after-use. If NEPOSS inclusion is proposed as part of the after-use plan, it should integrate findings of the other technical studies in consideration of what NEPOSS park classifications may be more appropriate and/or achievable.*
- f. *The ability for the lands to be rehabilitated to accommodate future agricultural use of the site has not been well explored. The expansion lands are considered to be prime agricultural despite what current use may be operating on them. Any rehabilitation plan should consider the inclusion of future agricultural use; the scope of which would not be limited to traditional field cropping agriculture but should consider all agricultural uses as permitted through Provincial policy.*
- g. *A broader assessment of the open landscape character and the inclusion of additional viewpoints is required through the submitted visual impact assessment to better define impacts that may be realized from the Mount Nemo plateau and other surrounding areas. These findings should be incorporated in a fulsome definition of the cultural heritage landscape that exists in the area.*

3. Overall, a better integration of the findings from the various technical studies is requested. It is suggested that this integration be completed predominantly through the lens of natural heritage and ecology.

In reviewing the original NEC submission, Objection 1 from our objection letter maintains the primacy of an NEC Development Permit Application decision over this Aggregate Resources Act application. The evaluation of cumulative impacts (Objection 2.a) and restoration (2.e and 2.f), particularly in reference to NEP development criterion 2.2.1, is as yet unaddressed. There remain some outstanding questions on hydrologic and natural heritage connectivity (Objection 2.b), and while DFO recommendations for fish and fish habitat protection are identified in the Nelson's General Response Letter Tab 1 below, the NEC retains an interest in ensuring these measures are implemented (Objection 2.c). There remain outstanding issues to be resolved with built heritage resources and cultural heritage landscapes (2.d. and 2.g) and clarification on the scope and breadth of Indigenous engagement (2.d) – see also our comments below on Nelson's General Response Letter Tabs 5, 7 and 8. Throughout the commenting process to date, integration of findings between the various technical studies has continued to be an issue yet to be fully addressed (Objection 3. In our objection letter).

Nelson Aggregates General Response Letter

As stated above, the General Response Letter dated June 27, 2022, is not a specific response to our objection letter but rather provides a blanket response to some of the JART members' objections.

In response, the NEC is grateful for the additional time provided by the applicant and Ministry of Natural Resources and Forestry to reply to the applicant's Response to Objectors. The NEC similarly appreciates the list of amendments to the ARA application the applicant has provided on pages 2-3 of the General Response Letter, reflected in part as refinements prompted by comments and recommendations provided by the JART and NEC, along with other stakeholders and citizens.

Regarding the additional inter-agency consultations outside of JART, as per the tabbed references cited and attached to the General Response Letter, our comments follow.

Tab 1 – Fish Habitat: In their letter of January 23, 2021, the Department of Fisheries and Oceans has recommended that Nelson Aggregates avoid and mitigate the potential for prohibited effects to fish and fish habitat by following the DFO recommendations detailed in its letter, which is not a release of Federal interests on this matter. As a result, the NEC retains an interest as per item 2.c in our objection letter, to ensure that prohibited effects to fish and fish habitats are prevented and mitigated.

Tab 2 - Agriculture: Understanding that OMAFRA's objections to this ARA application have been withdrawn, but not being privy to these discussions, the NEC retains the interest identified in 2.f of our objection letter, reflecting NEP policies 2.8 and 2.9.11.g on agricultural land use, and rehabilitation of such areas subject to mineral resource extraction.

Tab 3 – Species at Risk: Appreciating that MECP has had the benefit of commenting on the Adaptive Management Plan prior to our receipt, concluding that they retain no further concerns with Species at Risk, we note that in part potential impacts of the proposed expansion on SAR habitats are predicated on the hydrogeology and surface water modeling that, as below, have been identified at JART as needing refinement and expansion in scope. Further, there is disagreement as to whether sufficient surveys have been conducted for Jefferson Salamander, where additional data may better inform NEC comments on whether this interest has been adequately addressed.

Tab 4 – Water Resources: The NEC interests in hydrogeology and surface water outlined in our objection letter (2.a) have yet to be addressed. With review to date of further submissions and further discussions, the NEC has identified concerns regarding the applicant’s proposed parameters for baseline conditions, the scope of the hydrogeological and surface data sets being used to on which to base subsequent modeling, and as a result the precision and resolution of this modeling.

Tab 5 – Cultural Heritage Resources: Understanding that the Ministry of Tourism, Culture and Sport has no licensing (archaeology) or process (built heritage and cultural heritage landscape) concerns, MTCS is not the approval authority on these matters. As an approval authority, the NEC has unresolved concerns (2.d, 2.g, 2.e in our objection letter) with the identification and mitigation of built heritage and cultural heritage landscapes.

Tab 6 – Natural Heritage and Aggregate Resources - Appreciating that MNRF has had the benefit of commenting on the Adaptive Management Plan prior to our receipt, and the NEC has not been privy to the documented discussions, we note that MNRF acknowledges outstanding matters beyond their jurisdiction, including the NEC Plan Amendment application. The NEC has remaining concerns as described in our comments on Tabs 1, 3, 4, 7 and 8 (2.c and 2.f in our objection letter).

Tab 7 – Indigenous Communities a) Six Nations of the Grand River Territory: The NEC advises that it would be prudent to engage the traditional Haudenasaunee Council on this application.

Tab 8 – Indigenous Communities b) Mississaugas of the Credit: Based on the correspondence cited, the scope of engagement with this First Nation appears limited to review of the archaeology carried out, and that it would be prudent to engage this First Nation regarding the overall application.

Joint Application and Review Team (“JART”)

With respect to the JART process, the NEC notes that the following meetings warrant addition to those documented in the General Response Letter :

- August 6, 2020 – Natural Heritage / Ecology webinar hosted by Nelson with Savanta
- August 8, 2020 – Hydrogeology webinar hosted by Nelson with Earthfx
- July 8, 2021 – JART + Nelson + OMAFRA + MMAH meeting to discuss AIA and Prime Agricultural policies

- June 17, 2021 - JART meeting hosted by Nelson on Provincial, Regional and City agricultural policies,
- July 8th, 2021 – JART meeting hosted by Nelson reconvened from June 17, 2021 continuing on the policies discussion.

As an attendee, the NEC notes that the December 7, 2021, meeting is inaccurately described in in the General Response Letter , given that it was cancelled mid-stream by Nelson. The discussion topics did not proceed past baseline condition modeling and resulted in Nelson’s cancellation of further previously scheduled meetings with subject matter experts that were to follow.

While we understand the applicant’s concern with the JART process to date, they do not quantify estimates of potential time and dollar expenditures for the alternative approach of meeting with each government and agency separately. Such separate consultation with individual agencies would likely result in duplication of efforts owing to jurisdictional and subject matter overlaps.

Conclusion

Based on the reasons provided in our objection letter, and our updates in this letter replying to the applicant’s General Response Letter, the NEC is of the opinion that the ARA application should not be approved until such time as further public consultation and technical review has taken place, and cannot be approved until such time as a Niagara Escarpment Plan Amendment is approved and a Development Permit been issued for the proposal. As a result, the NEC is not withdrawing its letter of objection.

Given that a comprehensive, largely third submission of documents was provided to the NEC on June 27, 2022, two days prior to the applicant’s General Response Letter, we remain in the midst of reviewing these recent (re)submissions, and note that an updated Planning Justification Report has yet to be submitted. On completion of a comprehensive review of a complete resubmission, we may potentially determine that some of the issues above may have been further addressed, and/or may identify additional concerns based on the submissions that require further reporting and analysis.

Should you have any questions or concerns please to do not hesitate to contact Joe Muller, Senior Strategic Advisor via joe.muller@ontario.ca.

Regards,



For John Dungavell, RPP MCIP, Director (A) Niagara Escarpment Commission

Cc: Joe Nethery and Janice Hogg, Region of Halton
John Stuart and Kyle Plas, City of Burlington
Leah Smith and Jessica, Conservation Halton



Legislative and Planning Services
Planning Services
Halton Region
1151 Bronte Road
Oakville, ON, L6M 3L1

August 12, 2022

Calinda Manning
Aggregate Specialist
Ministry of Natural Resources and Forestry
Integrated Aggregate Operations Section
300 Water St, 4th Floor S,
Peterborough, ON K9J 3C7

Quinn Moyer
President
Nelson Aggregate Co.
c/o MHBC Planning
113 Collier Street
Barrie, ON L4M 1H2

(delivered by email and courier)

**RE: Objection to the Nelson Aggregate Co.'s Burlington Quarry Extension
Aggregate Resources Act Licence Application, File #626477
Town of Milton, Regional Municipality of Halton**

Dear Ms. Manning and Mr. Moyer:

Halton Region has received Nelson's letter of June 29, 2022. Further to that letter, I am writing to confirm that Halton's objection to this licence application has not been resolved, and to outline recommendations that may resolve Halton's objection. I also note there are *Planning Act* and *Niagara Escarpment Planning and Development Act* approvals that must be obtained before the proposed *Aggregate Resources Act* licence can be granted. These remain outstanding.

Review of the Application by Halton and JART

Halton Region is the regulatory agency responsible for implementing matters of Provincial and Regional interest, as expressed in the 2020 Provincial Policy Statement, Provincial Plans, and the Halton Region Official Plan. As such, Halton and its partner agencies have convened a Joint Agency Review Team ("JART"), including a number of external consultants, to review Nelson's application.

Halton and its JART partners have worked together and in collaboration with Nelson and its consultants to ensure that all aspects of the application have been reviewed and assessed in an integrated manner. Comment summaries and peer review reports are all posted on Halton Region's project website and have been shared with Nelson throughout the process.

Regional Municipality of Halton

HEAD OFFICE: 1151 Bronte Rd, Oakville, ON L6M 3L1
905-825-6000 | Toll free: 1-866-442-5866

Nelson's most recent responses to JART comments were provided on June 27 and 28, 2022. In most cases these comments had been outstanding since February of 2022 and, in some cases, since 2021.

Given that Nelson's detailed technical responses were only received a day or two prior to Nelson's notice of response letter, Halton and its consultants are still in the process of reviewing them. Therefore, we reserve the right to supplement the list of outstanding comments and recommendations set out below.

Outstanding Concerns

Halton acknowledges that Nelson has made progress in resolving some of the concerns listed in our initial objection letter. However, many concerns remain unresolved. The details of all of these concerns are listed in comment tables that have been provided to Nelson throughout the JART review.

Halton's most significant outstanding concerns relate to the protection of water resources and natural heritage features and functions that depend on them, including wetlands, watercourses, and fish habitat. Nelson's groundwater analysis puts too much reliance on a model that is built on assumptions and lacks sufficient support from actual data or field investigations, with apparent contradictions on water sources and movement through the site. Nelson's model assumes that water is being stored in wetlands at present, but in fact could reflect runoff conditions. The reliance on assumptions developed through contradictory or untested information calls into question all of Nelson's predictions regarding impacts to groundwater and surface water resources and the natural heritage features and functions.

There remain significant gaps in the data presented in support of the application with respect to fish habitat and other natural heritage matters. With respect to fish habitat, Nelson has not provided any policy justification for disregarding on-site fish populations. Baseline fish habitat information for nearby tributaries is incomplete and/or dated. Baseline information for some wetlands are also missing. Halton maintains the golf course ponds should be sampled for Ambystomatid salamander breeding, as they resemble ponds where peer reviewers have found breeding salamanders in the past. No animal movement studies or research exist to support Nelson's proposed excavation or phasing plan, which would have the effect of disrupting existing natural corridors. The corridors proposed through rehabilitation are insufficient, particularly in terms of connections to the south of the proposed extension.

There remain concerns regarding the assessment of noise and air quality impacts from the proposed expansion. The air quality assessment has not used site specific emissions factors. Neither the air quality nor the noise analysis has assessed all aspects of the predictable worst case.

Nelson's proposed adaptive management plan ("AMP"), which is intended to address uncertainty, remains incomplete. Key details, including trigger levels have yet to be determined and cannot yet be determined because much of the data needed to inform this exercise has not been collected. Halton notes that the placeholder "TBD" appears 1,056 times in Nelson's most recent AMP document. Halton cannot support an approval where so many critical components are missing.

Beyond this, mitigation measures proposed to deal with any adverse impacts, such as deepening private wells or the installation of infiltration ponds, are speculative at best. Their effectiveness has not been demonstrated.

A major issue of concern is the complete lack of planning for the post-closure management of the site. The draft/incomplete AMP acknowledges that significant management of water resources will be required in perpetuity. However, no arrangements have been made to identify who will take on this perpetual responsibility or to determine how it will be funded. It is not in the public interest to create an unfunded liability of this magnitude without any advance planning to deal with it.

There has not been a sufficient assessment of the cumulative impacts of the proposal, as required by applicable policy. The proponent has not demonstrated conformity with Provincial policy and plans, or the Halton Regional Official Plan.

Recommendations

As a general comment, we recommend that Nelson address the comments and recommendations provided by the JART peer reviewers. The latest iteration of these comments are [available on Halton Region's project website](#).

Regarding groundwater modeling, JART's peer reviewer provided a letter in October of 2021 setting out a series of seven requests for additional information and analysis that could help to demonstrate the predictive value of Nelson's groundwater model. We understand that Nelson directed its consultants not to complete the requested work. Halton recommends that Nelson's consultants undertake these requests.

There have also been requests for additional groundwater data to be gathered in the field, particularly for additional groundwater monitoring between the proposed west extension and the Medad Valley further to the west. Halton recommends that this data be gathered and the results analyzed prior to any approval being granted.

JART's natural heritage peer reviewer has recommended additional field investigations, for instance, Jefferson salamander investigations in the existing ponds on the site of the west extension. Halton recommends that this work be undertaken.

Halton recommends that the AMP be finalized, including specifying all trigger levels, mitigation measures and other parameters prior to approval of the licence.

Halton recommends that Nelson make arrangements for the maintenance and operation of all required water management infrastructure following the closure of the quarry, or propose an alternative rehabilitation plan that does not require perpetual management.

Halton recommends that the requests of its noise and air quality consultants be implemented, including the use of site specific emission factors.

An updated planning justification report should be prepared to demonstrate how the proposal conforms to the applicable land use policy framework.

There are also a number of revisions required to the site plan notes that would resolve many of Halton and JART's more minor technical concerns.

Response to Comments in Nelson's Letter

Nelson's letter expresses concerns about the efficiency of the JART process. These concerns are beyond the scope of and not relevant to the ARA notification and consultation process. Nonetheless, since Nelson insists on raising these issues, we feel compelled to respond so that the record is clear.

Nelson's letter states, "*Despite numerous requests for meetings with JART, technical meetings have only occurred with JART on the following dates: ...*" If this statement is meant to suggest that JART has been unwilling to meet, it is misleading. The lines of communication between JART and Nelson have always been open. JART's project manager, Joe Nethery, has always been available to Nelson and has had many conversations with Nelson's representatives, particularly Brian Zeman and Tecia White, over the past three years.

Beyond that, JART has never turned down a request for a technical meeting. I understand that there was one instance where JART asked to delay meetings so that the peer review team could digest information that had just been delivered. JART's reviewers were ready and willing to meet with Nelson's consultants in early 2021, but Nelson decided to focus on meetings with Provincial agencies first. To suggest that the timeline of meetings reflects an unwillingness on JART's part to meet simply isn't true.

Finally, the list on pg. 5-6 of Nelson's letter omits several early technical meetings:

- August 6, 2020 – Natural Heritage/Ecology webinar hosted by Nelson and Savanta
- August 10, 2020 – Hydrogeology webinar hosted by Nelson and Earthfx
- June 17 and July 8, 2021 – JART, Nelson, OMAFRA and MMAH meetings to discuss the AIA and prime agricultural policies
- November 25, 2021 – additional technical meeting with natural heritage experts from JART and Nelson

Nelson's letter also states that "many of the comments were a result of the technical reviewers not fully understanding the details of the application; were extremely repetitive; beyond the applicable policy requirements and beyond the regulatory authority of JART." Nelson has made comments like this throughout this process. However, when invited to provide specifics, Nelson has been unable to provide them.

JART's peer reviewers have conducted a thorough review of all aspects of the application. They have done so diligently and professionally in order to inform the statutory decisions that Halton, Burlington and NEC are empowered by legislation to make.

With respect to the peer review fees that have been charged to Nelson, staff have responded direct to Nelson under separate cover.

Conclusion

Thank you for the opportunity to provide our input on this proposal. As stated at the beginning of this letter, Halton's objection to the proposed licence application has not been resolved. We hope that Nelson will make every effort to address the concerns and recommendations that we have detailed in this letter and we look forward to continuing to work with Nelson and its consultants in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read 'Curt Benson', written in a cursive style.

Curt Benson, MCIP, RPP
Director of Planning Services and Chief Planning Official

cc: Mark Simeoni, City of Burlington (by email)
Barb Veale, Conservation Halton (by email)
John Dungavell, Niagara Escarpment Commission (by email)
Brian Zeman, MHBC Planning



August 15, 2022

BY COURIER & EMAIL

Ministry of Northern Development, Mines,
Natural Resources and Forestry
Integrated Aggregate Operations Section
300 Water Street
Peterborough, ON K9J3C7
Attention: Calinda Manning
ARAapprovals@ontario.ca

Nelson Aggregate Co.
c/o MHBC
113 Collier Street
Barrie, Ontario, L4M1H2
Attention: Nelson Aggregate Co.
nelsonara@mhbcpplan.com

**Re: Objector response to Nelson Aggregate – Burlington Quarry Extension
Aggregate Resources Act License Application (City File: 505-04-20)
Part Lot 17 & 18, Concession 2 NDS; Part Lot 1 & 2, Concession 2.
City of Burlington, Region of Halton.**

The following responds to Nelson Aggregates Co. (“Nelson”) c/o MHBC correspondence to Jamie Tellier, Manager of Planning Implementation, dated June 29, 2022, which included an attached Notice of Objector Response. This letter is to confirm to the Ministry of Northern Development, Mines, Natural Resources and Forestry (“MNDMNR”) and Nelson that the City of Burlington maintains its objection to the above-noted proposal.

As you are aware, the City of Burlington has been actively participating in the comprehensive technical review of the proposed aggregate extraction expansion application through the Joint Agency Review Team (“JART”) protocol developed by the Region of Halton. The City is one of four participants in this specific JART which also includes the Region of Halton, Conservation Halton (“CH”), and the Niagara Escarpment Commission (“NEC”). In addition to this active participation, the City is also considering a Local Official Plan Amendment (“LOPA”) under the *Planning Act* made to amend the City’s Official Plan (1997) to permit the proposed expansion and the continued use of the current site for industrial purposes. The City is also responsible for commenting on the required Niagara Escarpment Plan Amendment (“NEPA”) application (PH 219 20) and corresponding NEC Development Permit Application (“DPA”) (H/E/2020-2021/108).

In previous correspondence regarding these applications, the City has consistently sought, as a preliminary matter, proper review and direction regarding conformity of the proposed Quarry Extension with the Niagara Escarpment Plan (“NEP”) and *Niagara Escarpment Planning and Development Act* (“NEPDA”). As no decision on the NEPA application has been rendered, the City identifies there remains an outstanding land use policy conformity issue with an applicable Provincial Plan.

In the City of Burlington’s December 3, 2020 Letter of Objection five (5) theme areas were identified that formed the basis for objection, with the reserved right to identify additional issues as the application progressed. Within these five (5) themes were a number of technical issues raised as well as requests for further assessment and clarification in a number of disciplines. Since that letter was sent the City of Burlington, through the JART process, has worked with agency partners and the applicant to attempt to resolve issues and identify gaps in information that need to be provided to conduct a fulsome assessment pursuant to relevant legislation and policy. Despite opinions suggesting the contrary, the JART process has been carried out in alignment with the JART Protocol established and updated by the Region of Halton and has been a valuable tool to coordinate a comprehensive review of a highly complex, and technical proposal.

The Nelson response letter identified a number of dates in which meetings between the applicant and JART specialists occurred; the follow additional meetings also occurred:

- August 6, 2020 – Natural Heritage / Ecology webinar hosted by Nelson with Savanta.
- August 8, 2020 – Hydrogeology webinar hosted by Nelson with Earthfx.
- July 8, 2021 – JART + Nelson + OMAFRA + MMAH meeting to discuss AIA and Prime Agricultural policies.

Additionally:

- The December 7, 2021 meeting listed in the applicant’s response letter was cancelled mid-meeting by the applicant and their agent which then cascaded into the cancellation of other scheduled technical meetings as mentioned below.

Following the applicant’s second submission, from December 2021 to March 2022 JART reviewers were prepared to participate in technical meetings with the applicant’s consultants on outstanding issues. These meetings were ultimately cancelled at the request of the applicant. To ensure the review process continued, JART provided the applicant with interim responses on outstanding issues; additional technical meetings then occurred in May of 2022.

Third Submission

The City, through JART, is in receipt of an additional submission made by the applicant sent June 27, 2022 which JART has identified as the “third submission”. It is noted that this submission was made 2 days ahead of the dated objector response letter. City Staff and JART is working diligently to undertake a fulsome technical review of the third submission, however, given the extent of that submission, it is not realistic to expect that review to be completed prior to the August 15, 2022 response letter deadline. Therefore, it is premature to expect the City to be able to adequately assess if previous objections raised have been satisfactorily addressed by the applicant through the new submission.

Applicant Response to City Objections

The response letter provided by the applicant is predominantly focused on the efforts made to satisfy technical review by Provincial and Federal agency but fails to put forth meaningful recommendations for resolving objections that have been specifically raised by the City of Burlington in previous ARA correspondence as would be expected through Section 4.3.3.1 of the Provincial standards. While the information contained within the attached agency correspondence, and within the referenced JART response tables are acknowledged and valuable to the on-going review, they do not represent a direct response to the City of Burlington’s objection letter; a letter which was filed under cover separate from JART or Provincial agency. It is noted that many of the agencies referenced by the applicant are not approval authorities nor do some have confirmed outstanding objections on this ARA license application. Further, these agencies do not review applications against local or regional policy or standards that may be more restrictive or require additional technical analysis.

The Applicant’s response letter does not specifically respond to the concerns specified in the City’s December 3, 2020 Letter of Objection. Further, JART and City staff are currently reviewing the 3rd submission, provided June 27, 2022. As this recent submission attempts to respond to outstanding JART and COB Staff concerns, its complete review is needed for an informed response to be provided. As such, a number of City concerns set out in its December 3, 2020 letter have been reiterated.

City of Burlington Objections and Recommendations.

In previous correspondence the City organized its concerns under five (5) general theme areas as follows:

- Operational/Coordination
- Effects on Surface Water Quantity and Quality
- Natural Heritage Effects.

- Agricultural Effects and existing farm practices; and
- Human Health (Air Quality).

The City also reserved the ability to raise additional concerns as the technical review of the application progressed through the Region of Halton JART process.

Operational/Coordination

As emphasized in its original objection letter the City of Burlington remains concerned with Nelson's plans to continue the use of the existing quarry site for processing facilities as part of an expanded quarry operation. It is acknowledged that the applicant has submitted updated site plans which include operational requirements to be applied to the existing site, additional buffer plantings, and a revised rehabilitation plan. However, The City a Burlington remains concerned with the continued operation of an industrial use on the existing quarry lands throughout this next lifespan of the quarry. It is not a land use that is permitted to operate in the manner proposed through the policies of the NEP (2017), requiring an amendment to that Provincial plan. It is also not demonstrative of Provincial direction that considers quarries as temporary uses on the landscape.

It is recognized that the applicant did schedule and participate in a November 25, 2021 virtual public information meeting for the purpose of providing a platform to present the proposed changes to the application to ARA objectors and to respond to questions.

Effects on Surface Water Quantity and Quality

The City remains concerned with the potential impact of the proposed Nelson Quarry Extension on surface water quality and quantity.

Based on on-going technical discussions on report integration, baseline conditions, and cumulative impacts, the City continues to seek improved coordination and cross-referencing between various technical disciplines and reports. Technical discussions between the applicant's consultants and JART reviewers were held in an attempt to address these issues. The additional information submitted by the applicant June 27, 2022 is anticipated to further that discussion however a fulsome review of that information is currently on-going and will not culminate prior to the required response date under the ARA process.

The City remains concerned with the suitability of the analytical tools selected by the applicant to simulate the existing and proposed drainage conditions and the accuracy of modeling techniques, assumptions and interpretation of results. Through the JART process the City and other JART members continue to request the inclusion of additional monitoring data that is

better representative of seasonal variations as well as the extent of impacts that should be monitored for.

In the City's original objection letter, it was stated that a *mutually agreed upon* adaptive management plan was needed that addressed the numerous technical comments of the JART. The City acknowledges the applicant submitted a new adaptive management plan on June 27, 2022. A detailed review of this new plan is currently underway; however, the City notes that the plan was largely developed by the applicant in consultations with Provincial agency. Due to this the City is not able, at this time, to identify whether outstanding concerns with the AMP have been resolved, and by extension cannot qualify the plan as *mutually agreed upon*. It is finally noted that, based on on-going discussion regarding future monitoring, the monitoring components proposed through the AMP are not yet confirmed.

Natural Heritage Effects

The City remains concerned with the potential impact of the proposed Nelson Quarry Extension on natural heritage features including adjacent lands.

As part of on-going meetings and review, the City remains concerned that the applicant has not appropriately responded to concerns regarding fulsome evaluation of significant wildlife habitat and species at risk. The correspondence from MECP in the applicant's response letter is valuable in assessing what requirements under the ESA, if any, that may be required, however it does not constitute acceptance of impacts that may be realized to adjacent lands, nor does it consider requirements and standards applied by approval agencies. MECP is not an approval authority, and they do not have a known objection to this license application.

The City, through the JART technical review process, continues to pursue the incorporation of additional historical data into the applicant's modeling of surface water and groundwater functions in order to better understand baseline conditions and wetland hydroperiods. Further assessment of species at risk and habitat function has been sought through the JART review including a broader consideration of the impacts of fragmentation on the function of adjacent lands.

The applicant has submitted additional modeling information and responses to technical comments within the third submission that is currently part of the JART's on-going, comprehensive review.

Agricultural Effects and Existing Farming Practices

The City remains concerned with the potential impact of the proposed Nelson Quarry Extension on agriculture, including existing farm practices. Through ongoing discussions between the applicant and JART reviewers, additional information regarding soil quality on the western expansion lands was submitted and agricultural uses have now been considered, to an extent, within the proposed rehabilitation plan. Certain issues raised by the City and JART reviewers regarding the impact of fragmentation on agricultural lands, consideration of climate change in the assessment of impacts, and the assessment of cumulative impacts remain outstanding. The correspondence with OMAFRA provided by the applicant in the response letter is valuable in the assessment the application, however, the City remains unclear to what extent, if any, that agency considered provincial, regional, or local land use policy in their assessment. It is also not clear in the correspondence what the concerns of that agency were, or how they were addressed. It is noted that OMAFRA is not an approval authority of any applications related to this expansion application.

The City, through the JART technical review process, continues to pursue a broader assessment of impacts to agricultural lands and resources within the AIA, and better integration of findings from other technical assessments into the AIA. Additionally, the applicant's rehabilitation plan should reflect a broader consideration of agricultural after-uses given the location of rehabilitation areas on the subject lands.

The City acknowledges that the applicant has submitted responses and supplementary information as part of a recent third submission to JART. JART and City reviewers are working to review that additional information received June 27, 2022.

Human Health (Air Quality)

At the time the City's original objection letter was produced, a peer-review of the applicant's air quality study had yet to be concluded. The peer review has now been completed by the JART reviewer with an additional response between the reviewer and the applicant's consultant taking place. A final review of this study is ongoing. The City of Burlington requires this assessment to be concluded and any additional information identified as outstanding provided before any objection regarding air quality is reconsidered.

Additional concerns.

Noise

City Staff, through the JART review process, are seeking the inclusion of the updated Environmental Compliance Approval (ECA) for the on-site hot mix asphalt plant. Information has

also been sought regarding future noise surveys intended to demonstrate compliance with NPC 300 limits. Site plan updates regarding hours of operation, implementation of proposed mitigation measures and labeling of deemed right-of-way widths is also sought.

The City acknowledges that the applicant has submitted responses and supplementary information regarding the undertaken noise impact study as part of a recent third submission to JART. That submission is currently under review.

Conclusions

As the review of a comprehensive resubmission by the application is currently ongoing and a number of technical and policy issues remain outstanding related to this ARA application, the City of Burlington's objection to the issuance of an extraction license remains in place. The City of Burlington continues to object to the application as it does not sufficiently address the matters listed in s.12(1) of the *Aggregate Resources Act*; among other matters. Accordingly, it is the City of Burlington's opinion that the license application should be refused in its present form.

The City of Burlington remains an active participant in the Halton Region JART process and is of the view that the JART process should continue to its conclusion on the expansion application. The City reserves the right to raise additional issues and provide further recommendations through the on-going JART review of the supplementary information recently provided by the applicant.

Sincerely,



Mark Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Cc: Curt Benson and Joe Nethery, Region of Halton (by email).
Barb Veale and Leah Smith, Conservation Halton (by email).
John Dungavell and Joe Muller, Niagara Escarpment Commission (by email).
Brian Zeman, MHBC Planning Ltd. (by email)

August 10, 2022

BY EMAIL AND MAIL

Nelson Aggregate Co.
c/o MHBC
113 Collier Street
Barrie, ON L4M 1H2
Attn: Nelson Aggregate Co.
nelsonara@mhbcplan.com

AND

Ministry of Natural Resources and Forestry
Integrated Aggregate Operations Section
4th Floor S, 300 Water Street
Peterborough, ON K9J 3C7
Attn: Calinda Manning
ARAapprovals@ontario.ca

Dear Nelson Aggregate Co. and Calinda Manning:

**Re: Application under the Aggregate Resources Act for a Category 2, Class A - Quarry
Below Water – Objector Response
Nelson Aggregate – Burlington Quarry Extension
Part Lot 17 & 18, Concession 2 NDS and Part Lot 1 & 2, Concession 2, City of
Burlington
Conservation Halton File No: PQ 20**

Conservation Halton (CH) has received and reviewed the Notice of Objector Response “Letter Re: Nelson Aggregate Co. Burlington Quarry Extension – Response to Letter of Objection under the Aggregate Resources Act,” prepared by Nelson Aggregates, dated June 29, 2022, received by registered mail July 4, 2022.

On December 9, 2020, CH submitted an objection letter to the above referenced ARA application outlining our concerns with the proposal. Since that time, CH has been reviewing the proposed quarry expansion through the Region of Halton’s Joint Agency Review Team (JART) process alongside the Region of Halton, City of Burlington, and the Niagara Escarpment Commission. CH and its partner agencies are working cooperatively so that we can provide the Ministry of Natural Resources and Forestry (MNRF) and Nelson Aggregate Co. (Nelson) with a comprehensive and coordinated set of comments.

The purpose of this letter is to outline CH’s review role through the JART, the JART process that has occurred to date and to outline what CH issues remain outstanding since our December 2020 objection letter.

CH's Review Role

The existing Nelson Quarry and proposed expansion areas are entirely located within the Bronte Creek and Grindstone Creek watersheds. The expansion lands contain and/or are adjacent to features regulated by Conservation Halton, including wetlands, and watercourses with their associated flooding and erosion hazards as well as potentially hazardous lands (i.e., karst).

CH is reviewing the proposal based on our delegated responsibility to represent the Province on the natural hazard policies of the Provincial Policy Statement (PPS 3.1.1-3.1.7) and to ensure that the proposal complies with CH's regulatory requirements (e.g., natural hazard or wetland related policies and requirements). CH is also acting as a technical advisor providing advice on natural heritage and water resources matters through the JART technical review process. However, the Region of Halton is taking the primary review role of natural heritage features that are not regulated by CH, under Ontario Regulation 162/06 (e.g., significant woodlands, significant wildlife habitat, fish habitat, etc.).

JART Process

The intent of the JART process is to provide a comprehensive technical review of the ARA application and associated reports, as well as to identify any additional information or analyses required for the JART to conduct their review. This process allows the agency partners to conduct a critical review of the ARA application and supporting materials without duplicating efforts.

The JART has provided a series of two technical responses to Nelson on natural heritage and water resources matters since the application was filed. We have also had multiple site visits, meetings, and check-in meetings with Nelson to discuss comments and the status of review. While we acknowledge the meeting dates provided in the Notice of Objector Response, we also note that a number of meetings with Nelson were not included on the list, and that several meetings were also cancelled at Nelson's request. The JART agency partners responsible for processing the related development applications will provide additional information on the process milestones that have occurred to date. On June 27, 2022, two days before receiving the Notice of Objector Response from Nelson, JART received the responses to our latest natural heritage and water resources comments along with additional supplementary information including the updated Adaptive Management Plan (AMP).

Outstanding Issues

As JART has not had sufficient time to complete a fulsome review of the submission received on June 27th including the updated AMP, the following is a high-level overview of the issues that are still considered outstanding as previously identified in our December 2020 letter.

1. Insufficient detail has been provided to determine what impacts the proposed quarry may have on the surrounding surface water and groundwater resources, as well as natural heritage features, functions and areas including, but not limited to, the Grindstone Creek, Bronte Creek and all related tributaries, provincially significant wetlands, endangered species / species at risk, significant wildlife habitat, significant woodlands and fish habitat.
2. It is not clear what proposed mitigation measures are included and if they will adequately ensure that the water resources and natural heritage features and functions will not be impacted over the long term.
3. Insufficient detail has been provided to assess cumulative impacts to surface water, groundwater and the natural environment. Further, the 10-year period of simulated baseline data for groundwater and surface water is insufficient to evaluate potential impacts.

4. Additional detail is needed to determine a suitable rehabilitation plan that appropriately evaluates and addresses potential impacts (including cumulative impacts).
5. The various studies submitted have not been adequately coordinated and integrated to provide a comprehensive evaluation of impacts and the identification of appropriate mitigation measures.

Note that in the Notice of Objector Response Nelson acknowledges the high-level concerns raised by JART in the initial agency objector letters; however, it does not include an individual response to CH's comments, nor does it identify how any of JART's comments have been addressed.

Please note that should further issues arise through the technical review of the June 27th submission including the AMP, CH may have additional comments.

Summary

In light of the above, and until we can confirm that our previously identified issues (as revised above) have been addressed, CH is unable to withdraw its objector status and continues to object to the approval of the above-referenced ARA Licence for a Category 2, Class A Quarry Below Water, as proposed by Nelson Aggregate Co.

The JART has provided a series of two technical responses on natural heritage and water resources matters to Nelson Aggregate Co. since the application was filed and additional information including the AMP was received on June 27, 2022 and is currently under review. Following our review of the above-referenced material, CH will be in a better position to determine whether the outstanding objections have been addressed.

We trust that these comments are of assistance. Should you have any questions, please contact the undersigned via email jbester@hrca.on.ca or phone 905-336-1158 ext. 2317.

Sincerely,



Jessica Bester, BES, MCIP, RPP
Senior Environmental Planner

Cc (by email): Joe Nethery & Janice Hogg, Region of Halton
Kyle Plas & John Stuart, City of Burlington
Joe Muller, Niagara Escarpment Commission