



The Regional Municipality of Halton

Report To:	Chair and Members of the Planning and Public Works Committee
From:	Mark G. Meneray, Commissioner of Legislative and Planning Services and Corporate Counsel
Date:	June 18, 2009
Report No. - Re:	LPS12-09 - 2009 Annual Report on Active Aggregate Applications within the Region and Active Aggregate Applications that have the potential to impact the Region

RECOMMENDATION

THAT Report No. LPS12-09 re: “2009 Annual Report on Active Aggregate Applications within the Region and Active Aggregate Applications that have the potential to impact the Region” be received for information.

REPORT

This report is intended to provide Regional Council with a status update on all active aggregate applications in Halton Region and those located on lands outside of but potentially impacting, Halton. Providing Committee members with this type of report annually will serve to keep Councillors informed on issues related to active aggregate files. Separate staff reports on individual files at major milestones or decision points will still be brought forward at the appropriate time.

As a companion to this report, the Aggregate Monitoring Coordinator will be presenting PWE43-09 “Aggregate Operations Annual Monitoring Report (2008)” at an upcoming Committee meeting, which will provide information on all licensed pits and quarries within Halton. The combined effort of these two reports will be to provide Regional Council with an overview of all the active applications and licensed operations that currently exist within the Region and those applications in an adjacent municipality that have the potential to impact the Region.

Background

Halton Region is directly involved in reviewing many applications related to mineral aggregate extraction both within and adjacent to the Region. Attachment #1 contains a map of all of the active applications (within and adjacent to the Region) currently under review by staff. The number tag assigned to each active aggregate file is consistent with the site specific descriptions discussed below.

At present, there are 6 applications for new aggregate licences under the *Aggregate Resources Act (ARA)* in Halton Region and 3 applications for new aggregate licences directly adjacent to the

Region. A licence from the Ministry of Natural Resources (MNR) under the *Aggregate Resources Act (ARA)* is required to operate a pit or quarry on private land. The licence is issued for either a:

- Class “A” Licence (to remove more than 20,000 tonnes of aggregate annually); or
- Class “B” Licence (to remove 20,000 tonnes of aggregate or less annually).

There are 8 types of licence applications listed in the Provincial Standards issued under the *Aggregate Resources Act* and the applicant must identify the licence category on the licence application. They are as follows:

- Category 1 - Class A Pit Below Water
- Category 2 - Class A Quarry Below Water
- Category 3 - Class A Pit Above Water
- Category 4 - Class A Quarry Above Water
- Category 5 - Class B Pit Below Water
- Category 6 - Class B Quarry Below Water
- Category 7 - Class B Pit Above Water
- Category 8 - Class B Quarry Above Water

Prior to obtaining a new licence, planning approvals must be in place, potentially including Regional and Local Official Plan Amendments as well as a Zoning By-law Amendment. In order for a site to be licensed, a site plan must be prepared to the satisfaction of the MNR. The MNR make their decision on such applications after consulting with other Provincial ministries, the local and regional municipalities and other review agencies such as Conservation Authorities. Once approved, this plan legally binds the licensee to operate and rehabilitate the site according to the signed agreements and the provincial standards. Site plans also identify existing features of the pit or quarry area including existing natural features and land uses on and surrounding the site; operational details like extraction areas, depth of extraction, types of equipment to be used, the hours of operation and lastly, how the site will be rehabilitated, addressing both progressive and final rehabilitation.

Properties in the Niagara Escarpment Plan area may also require a Niagara Escarpment Plan Amendment and a Development Permit (in place of a Zoning By-law Amendment). In Halton Region, Joint Agency Review Teams (JART), comprising staff from various agencies are established to undertake a detailed review of the technical studies submitted in support of the applications. This ensures sharing of information and expertise amongst review agency staff and effective engagement of the public. JART’s detailed technical review is intended to assist the approval authorities in understanding the technical material submitted in support of an application.

Active Applications within Halton Update

1. *Burlington Quarry, Nelson Aggregate Co. (Mount Nemo/Burlington)*

Regional Council should also be aware that staff have prepared a Confidential Memo on the Nelson Aggregate Co.’s quarry application in Burlington, which is being presented at the July 8, 2009 Planning and Public Works Committee meeting.

A pre-hearing was held at Regional Headquarters on December 8, 2008, regarding the Nelson appeals. Parties to the hearing include the NEC, Region of Halton, City of Burlington, Conservation Halton, Ministry of Natural Resources, Protecting Escarpment Rural Land (PERL), Lake Ontario Water Keeper and Paletta International. CONE and POWER requested Participant status. A number of individual members of the public were granted Presenter status.

The Joint Board was advised that matters regarding Regional Official Plan Amendment 25 (ROPA 25) were outstanding and that the policy dealing with the definition of significant woodlands (which were appealed by Nelson and others and subsequently deferred) would need to be addressed prior to the commencement of the hearing of the Nelson quarry appeal.

In the matter of the continuation of the Preliminary Hearing held by teleconference on January 27, 2009, the Joint Board was advised that Nelson would continue as an appellant of ROPA 25 in respect to the definition of "Significant Woodland" but that Dufferin Aggregates and the Ontario Stone, Sand and Gravel Association had withdrawn their appeal.

JART has completed their report and distributed it to the public, the applicant, the appropriate agencies, Local and Regional Councils, the Joint Ontario Municipal Board and Environmental Review Tribunal during the week of February 9, 2009. A Public Information Centre was also held on February 19 at Kilbride Public School to provide an overview of the JART report.

The Preliminary Hearing continued by teleconference on March 3, 2009. The Joint Board was advised that Nelson had requested the opportunity to file a response to the JART Report by the end of March. Nelson subsequently submitted their response to the JART agencies on March 30, 2009. This has led to a delay in the timing of staff reports to the respective Councils, Board and Commission to determine positions on the application. The timing of staff reports and the ROPA 25 appeal was discussed at length at a Pre-Hearing Conference on April 24, 2009, as were matters related to the legislation that applies to the applications at hand.

The JART member agencies intend to meet with Nelson in the near future to frame and scope the issues presented in both the JART Report and the response to the JART Report, in order to streamline the Hearing proceedings. Regional staff will also be preparing a position report to the Planning and Public Works Committee (PPW) on the Nelson application, which will be presented at the meeting scheduled for October 21, 2009. The timing of this report is being guided by the direction of the Joint Board, which has instructed all public agencies to have their positions finalized by November 19, 2009. The scheduling of this report in October 2009 will allow the Region and our municipal partners to meet this timing request.

2. *Acton Quarry Expansion, Dufferin Aggregates (Halton Hills)*

On March 19, 2009, Dufferin Aggregates submitted the required Regional Official Plan Amendment (ROPA) application (RQ48A/09), related fees and associated technical reports for the proposed Acton Quarry Expansion. The ROPA application proposes to re-designate approximately 124 ha of land from Escarpment Rural Area, Agricultural Rural Area and Greenlands “A” and “B” to Mineral Extraction Resource Area. The application also makes a request to re-designate lands from Agricultural Rural Area to Greenlands “B”; Greenlands “B” to Escarpment Natural Area; and Escarpment Rural Area to Escarpment Natural Area. The application would allow for the phased expansion of the existing Acton Quarry.

In addition to the ROPA application, the following applications have been submitted concurrently in support of the quarry expansion: MNR *Aggregate Resources Act* Licence, Niagara Escarpment Plan Amendment and Development Permit and Town of Halton Hills Official Plan and Zoning By-law Amendments.

Over the past two and half years, Regional and Town staff have been participants on a Joint Agency Review Team (JART) for the proposed Acton Quarry Expansion. JART has been co-ordinated through the Niagara Escarpment Commission office, which will oversee the Peer Review Process of the technical reports. This is consistent with the Region of Halton’s JART Protocol, which has been endorsed by the Region, NEC, Provincial Ministries and the Town of Halton Hills.

The next phase of the JART process will see the various Public Agencies – Ministry of Natural Resources, Niagara Escarpment Commission, Halton Region, the Town of Halton Hills, Credit Valley Conservation and Conservation Halton, begin to process the various applications that have been filed with the respective agencies. The applications are in the early stages of review, and the numerous studies have not yet been reviewed.

Regional staff issued a Notice of Complete Application for the ROPA to the applicant on April 17, 2009 (maximum 30 days after payment) as required by the *Planning Act*. A Public Notice of Complete Application was undertaken through newspapers, signage and mailings to property owners within 120m of the subject property (maximum 15 days after notice to applicant).

Staff also provided a memorandum to Planning and Public Works Committee on May 6, 2009, to update Committee on the status of this application.

3. *Rice & McHarg Quarry (Halton Hills)*

This small operation extracts sandstone for specialized purposes, such as landscaping and fireplace stone. Extraction typically occurs with the use of hand tools like crowbars. The owner is proposing to amend the licensed area and increase the depth of extraction. The 1980 Regional Official Plan allowed for an 11.3 ha expansion of the existing quarry, a policy that has been carried through to the current Official Plan. To proceed with the

expansion, a Development Permit is required from the Niagara Escarpment Commission, a process that has not yet been completed. Halton Region staff continue to request that the Development Permit be subject to specific conditions related to well monitoring. This application has been inactive since August 2005.

4. *Willroy-Brooks Pit, CBM Aggregates (Halton Hills)*

In 2006, CBM Aggregates purchased this site from J.C. Duff Limited. Prior to the purchase, J.C. Duff applied to the MNR for a Site Plan Amendment for a 3.8 ha increase to the extraction area of the existing licensed area of this sand and gravel pit. The new owners continue to pursue approval of this application. In addition to the requirement for site plan approval, a zoning by-law amendment may be required by the Town of Halton Hills for the proposed expansion.

Considerable natural heritage fieldwork has been undertaken by the applicant in cooperation with Credit Valley Conservation Authority (CVC). Prior to submitting comments on the site plan application to the MNR, Regional staff will need to consider CVC's pending comments.

5. *Milton Quarry, Dufferin Aggregates (Milton)*

As previously identified in the October 11, 2007 (PPW 155-07) Annual Update Report on Aggregate Operation and Applications, Dufferin Aggregates was issued a licence to extract aggregate from the extension lands of the Milton Quarry in February 2007. The resulting 45 conditions form part of the *Aggregate Resources Act (ARA)* licence and Site Plan application. Some of these conditions are to be satisfied prior to the commencement of extraction of the Phase 2 lands and others during and after the extraction. As identified in Report PPW155-07, Dufferin Aggregates has undertaken a work program to complete the necessary studies.

In late October 2007, Dufferin Aggregates proposed a plan to fill the gap in the Escarpment and created the "Gap Plan Advisory Committee". Meetings have been held and an Information Report was presented to the NEC in November 2007. There has been little movement on this proposal since that time. NEC staff had hoped to restart discussions with Dufferin once the initial concept plans to fill the gap have been prepared.

6. *Limehouse Quarry, Century Brick (Halton Hills)*

This proposal consists of an expansion to an existing quarry and the subject property is located near the Hamlet of Limehouse in the Town of Halton Hills. No application has been filed for this quarry expansion and only initial discussions have taken place between the proponent and staff from the Ministry of Natural Resources (MNR), Niagara Escarpment Commission (NEC), Credit Valley Conservation (CVC), the Region and the Town of Halton Hills.

The property is located within the NEC regulated area and a JART process, once established will be under the direction of NEC staff. The subject lands are already designated in the Regional Official Plan as Mineral Resource Extraction Area; two existing Class B licences have already been issued on the property and applications for amendment to the Niagara Escarpment Plan and a Development Permit will be required prior to an expansion of the quarry taking place. No amendments to the Region of Halton Official Plan are required. Century Brick will continue to excavate shale from this quarry for use in the making of clay brick products at their Hamilton facility.

7. *Hanson Brick Ltd., Tansley Quarry (Burlington)*

ROPA No. 32, adopted by Council on May 9, 2007, permits Hanson Brick Ltd. to establish and operate a new mineral resource extraction area known as the Tansley Quarry (3488 Tremaine Road) and to supply neighbouring landowners with a private communal water system, subject to satisfying certain conditions/agreements. The conditions and agreements ensure that Hanson provides the eligible properties (potentially affected by dewatering at the quarry) with a safe and reliable source of drinking water. At the time of drafting the private communal water system agreement, study participants believed that Bronte Creek would be the preferred source of drinking water for the private communal water system. However, the agreement noted that a variety of sources would be assessed and that the most appropriate would be recommended as part of the Class EA Study for the system. The system must be operational under the agreement by 2012.

The Class EA Study has been completed by Hanson and it recommends that for the eligible properties north of Highway 407 in the Rural Area, that a private communal water system be installed with a reservoir as the source which would be supplied from trucked-in water. Two eligible property owners south of Highway 407 within the Urban Area, will be supplied with an alternative source of potable water if their wells are impacted by the quarry, until they are connected into a Regional watermain via a local main to be extended north along Tremaine Road.

On June 17, 2009, Planning and Public Works Committee did not approve the staff recommendation that the Region acknowledge that the Study satisfies the requirements of ROPA No. 32 and the private communal water system agreement, and Committee directed staff to advise of the steps necessary to address the matter. Should Council ratify Committee's actions on June 24th, then a further staff report will be provided to Committee on July 8, 2009.

Active Applications outside but adjacent to Halton

8. *St. Marys Flamborough Quarry, CBM Aggregates (Hamilton)*

St. Marys Cement Inc. (Canada) is proposing a dolostone quarry on approximately 154 hectares (390 acres) of land on Lots 1, 2 & 3, Concession XI, City of Hamilton (formerly Township of East Flamborough). The quarry, referred to as the St. Marys Cement (Canada) Inc. Flamborough Quarry, is proposed to produce approximately three million

tonnes of dolostone a year for at least next 25 to 30 years. The properties on which these applications have been submitted are located on the west side of Milborough (Town) Line just north of Concession 11 E and immediately west of the Halton Region boundary with the City of Hamilton.

Through the City of Hamilton's preconsultation process, the City of Hamilton advised St. Marys that amendments to the former Township of Flamborough Official Plan and Zoning By-law and the approval of a Class "A" License under the *Aggregate Resources Act (ARA)* would be required prior to commencing operations at the proposed quarry. These applications and their supporting documentation have been under review by Halton Region (Report PPW53-07, PPW132-07, PPW155-07, PPW 94-08, PPW96-08, and LPS47-09) through our continued involvement in the Combined Aggregate Review Team (CART – based on the Halton Region's JART) process as initiated by the City of Hamilton in early 2005.

To date, Halton Region has identified significant concerns with the proposal for a quarry in this location. Specifically, the Region has noted that there is the potential for serious impacts to the surface and groundwater resources, the natural environment, transportation infrastructure and existing traffic patterns and from the excessive noise, vibration and dust that would emanate from the proposed quarry. Throughout 2008, St. Marys continued to collect background data related to the hydrogeological conditions in the area and on July 8, 2008, they secured a Temporary Permit to Take Water from the Ministry of the Environment. This permit has not been secured by St. Marys as the Ministry of the Environment continues to have issues with the results of the test completed in 2008. Dialogue between St. Marys and the MOE will continue to see if the Ministry concerns can be resolved. Staff will continue to monitor this situation and advise Council of how this matter is resolved.

On March 3, 2009, the Ministry of Natural Resources deemed the St. Marys' ARA application complete. St. Marys then engaged the 45-day notification period as required under the ARA. St. Marys also provided written notification to all landowners within 120 metres of the proposed quarry, posted signs on the two road frontages of the proposed quarry site, and has circulated the complete application package to public agencies prior to posting the required notice in a local newspaper. This notification period commenced on April 3, 2009, and the 45th day fell on May 21, 2009. During the 45-day notification period as identified in the ARA, a public information session was hosted by St. Marys on April 27, 2009, at the Waterdown Legion Hall.

During the 45-day notification period, referenced above, any person or public agency can provide the applicant and District Manager of the Ministry of Natural Resources with written notice of reasons for the objection to the issuance of the aggregate licence. The Region has provided a letter to the MNR on May 19, 2009, stating Halton's objection to the ARA application. The reasons for this objection were illustrated in Report LPS47-09, which was considered by the Planning and Public Works Committee on May 6, 2009.

9. *Rockfort Quarry, James Dick (Caledon)*

James Dick Construction Limited (JDCL) applied for a quarry licence in late 1998, on a property known as the Rockfort Quarry lands, located in the Town of Caledon, one concession north of Halton Region, on the east side of Winston Churchill Boulevard. Halton Region's interests are focused on the haul route (should it pass through Halton) as well as on hydrogeology and natural heritage. The proposed quarry site is connected via Roger's Creek and its tributaries to Halton's Terra Cotta Environmentally Sensitive Area. A detailed environmental study has been completed, which responds to questions that were raised at an Ontario Municipal Board hearing on the application. The hearing was adjourned pending the results of this study and reconvened on May 25, 2009. The hearing is scheduled to run for an initial seven week period from May 25, 2009 to July 9, 2009 and then to resume, if necessary, on September 14, 2009.

The appeal concerns the proposed amendment to the Official Plan of the Town of Caledon, a proposed zoning amendment to By-law 87-250 of the Town of Caledon, specific provisions of the By-law 2006-50 related to the applicant's lands and an application for a licence under the *Aggregate Resources Act*. In accordance with a detailed schedule developed by the main parties to this matter and as attached to the OMB Decision issued March 19, 2008 (PL000643 PL060448), there are a series of activities and key milestones to be achieved leading up to the commencement of the hearing.

10. *Norval Quarry, Brampton Brick (Brampton)*

Brampton Brick has acquired a 34.9ha (86 acres) property located north-east of the Hamlet of Norval in the City of Brampton for the purpose of developing a shale quarry. In December 2008, a rezoning application was submitted to the City of Brampton. In accordance with the provisions of the *Planning Act*, the City of Brampton deemed the application complete and circulated it to the various commenting agencies including Halton Region at the end of January 2009. A number of supporting documents were included in the circulation for Regional staff's review and comments. Peer review consultants selected by the City of Brampton, with input provided by the JART (Joint Agency Review Team) will be retained to assist with the review of the various technical studies.

Prior to the circulation of this application, there was a site visit with the proponent and initial preliminary meetings with Municipal and Conservation Authority staff. The JART process in Peel Region is similar to that developed here in Halton and includes members from Halton Region, the Region of Peel, Town of Halton Hills, Town of Caledon, Credit Valley Conservation Authority, Ministry of Natural Resources and the Ministry of Municipal Affairs and Housing. In addition, a Brampton Aggregate Review Committee consisting of City staff and the two Ward Area Councillors has been established to provide for community participation throughout the plan review process. Halton Region staff will actively participate in this process.

Brampton Brick has indicated that it expects to proceed under a work program comprised of two stages: the first one being the filing of an amendment to the City of Brampton Zoning By-law (filed on December 2008); and the second component being an application for a licence under the *Aggregate Resources Act (ARA)* (to be filed with the MNR towards the end of 2009).

FINANCIAL/PROGRAM IMPLICATIONS

The cost to review the six active aggregate files within the Region, which in some cases, requires the assistance of peer reviewers is funded by the applicant and from application fees. Existing budgetary resources are used to fund the review of applications in neighbouring municipalities.

RELATIONSHIP TO THE STRATEGIC PLAN

This report has a direct relationship to the 2009 Planning and Public Works Committee Plan Theme 2: Protect and Enhance of our Natural Environment.

Respectfully submitted,



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