November 1st, 2019

Andrew MacDonald
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough , ON
K9J 8M5

Submitted electronically via Environmental Registry of Ontario
https://ero.ontario.ca/user/login?action=comment&destination=/comment/reply/node/2913/comment

Dear Mr. MacDonald;

ACTION Milton is concerned about the proposed changes to the Aggregates Resources Act.

We are the residents in Milton - Campbellville Ontario, opposing the application for a license to operate a quarry at an old gravel pit which has naturally re-natured within Campbellville; known by the applicant as the Reid Sideroad Quarry.

Activity at the site, including blasting below the water table, dredging and asphalt recycling could impact the quality and quantity of water to both private wells and the Kelso wells which supply safe drinking water to over 1,000 residents in Campbellville and over 20,000 residents in Milton. Many issues have been identified for this quarry through a multitude of letters of objection to the Ministry of Natural Resources and the Ministry of Environment, Conservation and Parks.

At the foundation of ACTION's concerns is Government Agencies' Duty of Care. Regarding the proposed quarry license application, the MNRF has the responsibility to fully demonstrate its Duty of Care toward the public from any risk of harm that currently does not exist in the absence of an aggregate operation. This includes risks to our health, safety, water supply and air quality among other risks that may become apparent from aggregate operations that are unusually closer to communities than under normal circumstances.

Below are the proposed amendments to the Aggregate Resources Act, along with ACTION's comments.

1. Strengthen protection of water resources by creating a more robust application process for existing operators that want to expand to extract aggregate within the water table, allowing for increased public engagement on applications that may impact water resources. This would allow municipalities and others to officially object to an application and provide the opportunity to have their concerns heard by the Local Planning Appeal Tribunal.

    - In general, we agree with:

        (i) strengthening the protection of water resources for extraction within the water table as part of a more robust application process for existing operations;

        (ii) increasing public engagement for applications that may impact water resources;

        (iii) enhancing reporting on rehabilitation; and,

(iv) reviewing the notification and consultation requirements for new applications.

- Additional details are required:

  (i) Include protection of water resources "and impacts on natural resources both on and off of the extraction site";
  (ii) Define "within the water table" ('above' and 'below' the water table?);
  (iii) Cumulative impacts to be considered if there are existing licenses or other applications for licenses to go below the water table through the requirement for Environmental Impact Studies;
  (iv) Description of "increased public engagement" and "applications that may impact water resources" and why it would differ from requirements for new applications; plus mandatory circulation of applications to municipalities, conservation authorities and the public;
  (v) Requirements for "enhancing reporting on rehabilitation" should include planning in advance of operations starting, during operation and after the site has ceased operation.

  The wording of the proposed change appears to assume an objection must go to an LPAT, where aggregate producers have all the advantages over municipalities and the public.

  If objections cannot be resolved between the proponent and local municipality and/or public and the project does proceed to an LPAT hearing, the proponent should pay for both their own and the objectors' report reviews, expert testimony, and all other costs of the hearing. This will encourage the proponent to negotiate in good faith to resolve objections.

2. Clarify that depth of extraction of pits and quarries is managed under the *Aggregate Resources Act* and that duplicative municipal zoning by-laws relating to the depth of aggregate extraction would not apply

   - Depth of extraction should remain under the purview of the zoning process. Vertical zoning needs to be in place to manage local and subwatershed level impacts of below water table applications; including being fully evaluated for cumulative impact of other licenses or applications.

   - Currently, companies who are licensed for above-water-table pits can simply apply to extend down into the water table by getting a site plan amendment approved by the province. Municipalities only have commenting power on these amendments and don't have any right to appeal, the report said.

- The depth of extraction issue is critical to aquifer protection, as highlighted at the Guelph DoLime quarry, where the operator was extracting to the license depth limit without detailed information on the changes in geology at depth, resulting in extracting the upper part of the protective aquitard.

3. Clarify the application of municipal zoning on Crown land does not apply to aggregate extraction

   It's not clear why municipal zoning would not apply to aggregate extraction.

4. Clarify how haul routes are considered under the *Aggregate Resources Act* so that the Local Planning Appeal Tribunal and the Minister, when making a decision about issuing or refusing a licence, cannot impose conditions requiring agreements between municipalities and aggregate producers regarding aggregate haulage. This change is proposed to apply to all applications in progress where a decision by the Local Planning Appeal Tribunal or the Minister has not yet been made. Municipalities and aggregate producers may continue to enter into agreements on a voluntary basis.

   - Municipalities should be able to mandate haul routes based on safety considerations and input from the public.
   - Given the extraordinary impact of aggregate haulage, including the potential haulage of recycling material to and from the site long after the aggregate supply has been exhausted, haul route agreements must be a condition of al pending and future license applications. The low fees paid by the aggregate industry to local governments do not cover the cost of maintaining, upgrading, or replacing the transportation system that aggregate producers depend on.

5. Improve access to aggregates in adjacent municipal road allowances through a simpler application process (i.e. amendment vs a new application) for an existing license holder, if supported by the municipality

6. Provide more flexibility for regulations to permit self-filing of routine site plan amendments, as long as regulatory conditions are met.

   - Clear parameters around the use of self-filing are needed. A firm definition of "routine" must be provided. Planned amendments must be made public.
   - Increased inspection and enforcement by the MNRF and MECP is required to ensure aggregate producers comply with license requirements and Environmental Protection Act requirements

The MNRF is also considering some regulatory changes, including:

- Enhanced reporting on rehabilitation by requiring more context and detail on where, when and how rehabilitation is or has been undertaken.
   - Rehabilitation requires a timetable for dormant sites through license expiry dates and financial security on license approval to encourage aggregate operators to complete

extraction and rehabilitation in a timely manner while also providing resources to the MNRF should rehabilitation not be carried out per license conditions

- Progressive rehabilitation must be undertaken immediately upon completion of aggregate mining, and cannot be delayed if the site becomes, or is already, a site for concrete or asphalt recycling.

- Allowing operators to self-file changes to existing site plans for some routine activities, subject to conditions set out in regulation. For example, re-location of some structures or fencing, as long as setbacks are respected

  Conditions should also be set out in site plans and licenses.

- Allowing some low-risk activities to occur without a licence if conditions specified in regulation are followed. For example, extraction of small amounts of aggregate if material is for personal use and does not leave the property

  A definition is required for "low-risk activities". Stockpiling recycled aggregate and asphalt recycling for examples, should not constitute 'low-risk' due to the potential for contamination of groundwater.

- Clarifying requirements for site plan amendment applications

  - Conditions should also be set out in site plans and licenses. A firm definition of "routine" must be provided. Planned amendments must be made public.

- Streamlining compliance reporting requirements, while maintaining the annual requirement

  Beyond reporting requirements, the MNRF requires a more vigorous and clear inspection and enforcement process to increase the probability that aggregate producers are operating within license and regulatory requirements. All compliance reports must be made public, on an annual basis.

- Reviewing application requirements for new sites, including notification and consultation requirements

  - The public and local municipality must be included in this review exercise.

While no changes to aggregates fees are being proposed at this time, the Ministry is also interested in hearing your feedback on this matter.

- We are of the understanding that Municipalities do not intake sufficient funding from aggregate operators via the Province to offset impacts. For example, wear and tear on local roads; additional traffic signalling and impacts to local businesses. Financial benefit is needed to communities hosting aggregate production facilities. Financial benefit is needed to communities hosting aggregate production facilities. Fees must also apply to recycled material (asphalt and concrete, for example), both arriving at and leaving the site.

In conclusion, ACTION Milton supports the strengthening of protections of our water resources, increased public engagement and enhancing reporting on rehabilitation. However, there are many details remaining that require clarification of the amendment to the Aggregate Resources Act.

With respect,

George Minakakis

For ACTION Milton