



**Report:** PDL-CPL-20-14

**Region of Waterloo**  
**Planning, Development, and Legislative Services**  
**Community Planning**

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**To:** Chair Tom Galloway and Members of Council

**Date:** May 26, 2020

**File Code:** D05-02

**Subject:** Addendum to Report No. PDL-CPL-20-06, Regional Submission to Proposed Regulatory Changes under the Aggregate Resources Act

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**Recommendation:**

That the Regional Municipality of Waterloo approve an addendum to Report No. PDL-CPL-20-06 dated March 24, 2020, as detailed in Report No. PDL-CPL-20-14 dated May 26, 2020, and that this report be forwarded on to the Ministry of Natural Resources and Forestry as part of the Region's response to the Province's proposed regulatory changes under the Aggregate Resources Act, Environmental Registry of Ontario Posting No. 019-130.

**Summary:**

Staff is proposing an addendum to Regional Council's recent submission to the Province regarding its latest regulatory proposals under the Aggregate Resources Act (ARA). This submission was originally adopted by Council on March 24, 2020. The proposed addendum would provide supplementary comments on one previous staff recommendation, and add recommendations on two new matters outlined in more detailed below.

Due to the ongoing COVID-19 emergency, the Province has extended the commenting deadline on its regulatory proposals from March 30 to May 15, 2020. To meet this deadline, staff have submitted an advanced copy of this addendum report to the Province as a placeholder until Council has considered it.

**Report:**

At the Special Meeting of Council on March 24, 2020, Council adopted Report PDL-CPL-20-06 as the Region's submission to the Province regarding its latest proposed regulatory changes under the ARA. Since then, staff have received further input from the Township of North Dumfries that should be added to the Region's original submission.

### **Prohibition of Extraction within Wellhead Protection Areas A and B**

In our original comments, staff expressed our broad support for the Province's proposed regulatory changes related to source water protection (e.g., establishing new rules for how the water table is established, improving the content of water reports, and requiring water reports to be prepared by a qualified professional). Despite our general support for these proposals, staff indicated that they do not go far enough and recommended that the Province establish an outright prohibition on aggregate extraction activities within a Category A or B Wellhead Protection Area. There are three main reasons for staff's recommendation.

First, it is staff's position that extracting aggregates close to, or below the water table within Category A or B Wellhead Protection Areas has the potential to impact the quantity and quality of water in a Regional supply well. Such impacts could occur through the creation of preferential pathways to the aquifers, or through the removal or thinning of the protective soil layers that "filter" the water before it reaches the well. These physical changes can increase the risk of groundwater contamination through the extraction process (e.g., fuel spills), or through contamination related to inappropriate land uses after the site has been rehabilitated is (e.g., road salt, agricultural pesticides or nutrients). These changes could also increase the risk of bacterial contamination from birds, livestock and other animals that could potentially impact public health.

Second, the increased risk of groundwater contamination poses a long-term threat to the Region's supply wells, and could potentially result in the need for costly upgrades to water treatment processes or even the closure of a well. The loss of a Regional supply well could significantly impede Region's ability to meet both its existing municipal water supply obligations, and the population growth targets mandated by the Province's Growth Plan for the Greater Golden Horseshoe.

Third, although the aggregate industry maintains that aggregate extraction by itself is not a threat to groundwater, and that there is no basis to prohibit extraction in sensitive source water areas, it is difficult to predict every possible impact and to develop fail-safe mitigation measures to protect groundwater. Most mitigation measures depend on careful construction and on-going maintenance and monitoring by the aggregate operator. However, because of the limitations related to the self-assessment process of aggregate operations, such monitoring measures may be less than effective over the long-term.

For these reasons, staff reiterate our previous recommendation that the Province adopt a more precautionary approach to source water protection and prohibition outright

aggregate extraction within Category A or B Wellhead Protection Areas. If adopted by the Province, this prohibition would only affect a very small percentage of the region's total aggregate resource area.

### **Minor Site Plan Amendments to Excavation Setbacks**

Every aggregate producer must operate their site in accordance with a site plan approved by the Ministry of Natural Resources and Forestry. Currently, any amendments to a site plan require the written approval of the Ministry. However, the site plan amendment process is different depending on the significance of the proposed changes.

Minor site plan amendments involve minor changes to the operational, or rehabilitation aspects of a site that do not require external review and comment. One example of a minor amendment includes a reduction in the excavation setback area that does not encroach upon certain environmentally significant features, and the aggregate producer has an agreement with the adjacent landowner. This setback reduction could be for a pit licenced for above or below the water table.

While staff understand that aggregate producers must have some flexibility to adjust their excavation setbacks, municipalities and the public currently have no input into the process and there are no limitations on the number of times setbacks can be reduced. Left unchecked, this incremental process could adversely affect the surrounding community over time (e.g., noise, dust, visual impacts and groundwater).

To address this issue, staff recommend that the Province limit the number of times an excavation setback reduction can be approved through a minor site plan amendment process to one. Any subsequent reductions to the setback should be treated as a major site plan amendment, and be circulated to the affected area municipality, the public and other agencies for review and comment.

### **Introduction of "Sunset Clauses"**

Although there have been many examples of successful and timely site rehabilitation in Waterloo Region, there are still concerns about rehabilitation rates, partially extracted and/or dormant pits. Rehabilitation rates here and elsewhere in Ontario are perceived to be slow and often lag behind the rate at which new areas are opened for extraction. Some pits appear to operate continually with no closing date in sight. Other sites appear to be partially exhausted but remain dormant for many years. We have also encountered some licensed sites that have sat idle for many years before any extraction has actually occurred.

To help address this challenge, staff recommend that the Province initiate a broader discussion with municipalities, the aggregate industry and other key stakeholders on the introduction of "sunset clauses", required site plan amendments, and other potential measures for licensed sites that sit idle for many years. The overall goal should be to

encourage the completion of extraction and rehabilitation in timely manner, and to have all licenses updated as necessary to reflect current standards.

**Corporate Strategic Plan:**

This report supports three objectives in the Region's Strategic Plan 2019 – 2023, including protecting water resources, supporting a thriving economy, and recognizing the unique needs of our rural communities.

**Financial Implications:**

Nil.

**Other Department Consultations/Concurrence:**

Water services have been consulted in the preparation of this addendum report.

**Prepared By:** John Lubczynski, Principal Planner

**Approved By:** Rod Regier, Commissioner, Planning, Development and Legislative Services