

## Public Comment

To: Client Services and Permission Branch

Date: Aug.18.2022

Re: R.W. Tomlinson

Instrument type: Environmental Compliance Approval (air)

ERO number: 019-5565

Dear Madam / Sir

Please accept the following comments as my public response to the ECA application proposed by R.W. Tomlinson ERO #019-5565

As a resident living near the proposed site, I object to the proposal submitted by R.W. Tomlinson. I have read the ECA application that I received from your office and the accompanying documents as well as other documents posted by the proponent for public consumption regarding this matter.

I have three objections that I will detail in full throughout this submission, as an overview they are as follows:

1. The proponent fails to fully disclose in their ECA application the entirety of public concerns raised regarding, the pollutants contained in their anticipated emissions, the acoustic concerns from production and transferring materials, ground water contamination from run off and spillage, increasing traffic volumes and pedestrian safety and the overall vulnerability of the Intake Protection Zones relative to the proposed site. In developing reports for the Local Zoning approvals, there were additional concerns raised about the validity of the predictive data used for the studies in particular in the Emission Summary where Tomlinson admits, data was taken from the nearest most compatible monitoring station in St. Anicet Quebec some 230kms from Napanee. Lastly Tomlinson in understating their processes are also not willing to acknowledge the possibility of future intake water contamination or the possibility of adjacent landowners wells being contaminated adversely affecting human health, crop yields, livestock and subsequent land values.
2. The Proponent failed to describe the extent and nature of the objections raised by the community and town council given the proximity of the proposed location to a fragile yet growing downtown. Also not described in their documents, the volume and extent of the local objections raised from the public concerned the location has changed in its makeup of residential housing / retail mix no longer compatible to large scaled industrial extraction and asphalt / concrete production. Tomlinson states in the ECA 2.3 under Project Type, the Air Equipment will be "stationary" with limited operational flexibility and yet no mention in their application for a permanent location was rejected.

Much Public input has already been gathered. Failed to acknowledge that through extended operations and business growth that the potential for premature roadway degradation exists or that they would be responsible for repairs or the addition of traffic lights.

It is also my concern the ECA application failed to clearly define the context or content of what Limited Operational Flexibility actually means in terms of how Tomlinson will actually operate thereby exacerbating concerns about their duties to report their activities as they scale up or down to achieve their business objectives. There is a concern the term "Limited Operational Flexibility" in not being fully described, is might be semantics to deflect the application process away from how Tomlinson would like to operate on the

proposed site, given their permanent zoning application was rejected unanimously by Greater Napanee Town Council, April 5, 2022.

3. The Proponent failed to consider future land use and the growth patterns of the town itself now stretching east and north of the proposed site and how the extractive nature of the mining and associated asphalt / concrete production processes will hinder the installation of infrastructure services and discourage higher density building necessary to the community's long term growth. Failed to acknowledge in their growth projections the possibility that a future secondary access road (already on their site plan) will require municipal roadway access.

## Details

### Item 1: Not fully disclosed

The following items are specific to the ECA application and the Acoustic Report, The Emission Summary, and in part other documents submitted to the public for the purposes of their Zoning Bylaw Amendment Application recently rejected by the Town of Greater Napanee, they are: Best Practices Fugitive Dust, Traffic Impact Assessment, Storm Water Management, and Environmental Impact Assessment.

- Should previous ECAs requested for the same property not have to be disclosed such as;
- Environmental Compliance Approval, Number 1967-BPKLCB, Issue Date: June 4, 2020.

Issued for sewage works for the collection, transmission, treatment and disposal of quarry water (i.e. stormwater and groundwater) collecting within the confines of the Quarry, consisting of the following: STORMWATER & GROUNDWATER MANAGEMENT

- In addition, pertinent to this ECA Tomlinson has recently received permission to establish a mobile Concrete Batching Plant anywhere in Ontario (exception of Thunder Bay and Kenora). Environmental Compliance Approval, Number 2456-BZ7P6H Issue Date: June 15, 2021.
- It is pertinent because, Tomlinson has stated concrete is a "key component" to their future business activities, and so it would be reasonable to expect since concrete is also included in the Napanee zoning application there is potential of an additional permanent concrete plant being added in Napanee on or close to the same location as the Asphalt Plant.
- In the ECA overview they state: Emissions to the air from this facility include:

Benzene, benzo(a)pyrene, carbon monoxide, crystalline silica, naphthalene, nickel, sulphur dioxide, suspended particulate matter (undefined) and products of combustion such as nitrogen oxides.

- Should Tomlinson not also mention Organic compounds including Volatile Organic Compounds (VOCs) and semi-volatile organic compounds such as Polycyclic Aromatic Hydrocarbons (PAHs) which may also be released in the process.
- The (RAP) Reclaimed Asphalt Pavement, stockpiles reported in the ESDM indicate the Quality of Emission Data was above average in terms of crystalline silica, as well as in the Baghouse, which also stated above average in terms of Carbon Monoxide and Benzene. Should associated elevated risks for residents or employees need to be reported?

- No mention of the Emissions generated by the waste and by products of the combustion process, or how they will be handled, transferred or disposed of.
- Given the Initial listing of Contaminates EDSM sec. 2.0 it appears Tomlinson will not be using asphalt specifications and recommendation from the Canadian Asphalt Code of Practice. Whereby the Federal Government suggest the use of low VOC emissions and the cutback of asphalt high VOC emissions which is;
  - asphalt cement
  - solvent (gas/kerosene/fuel oil)

Their recommendation is the use of emulsified asphalt low in VOC emissions which is;

- asphalt cement
- water + emulsifying agent
- Not disclosed in the ECA or supporting documents that Tomlinson will be using the higher more volatile production methods because Tomlinson does state no water will be used in the production of the material or operation of their facility, none at all.
- Not disclosed in the ECA or the EDSM sec. 2.0 Phenol Formaldehyde as a polymer agent which can be used in asphalt to significantly improve the properties of asphalt mixture to improve density.

Pg. 97 of the EDSM under Estimated Emissions for a Typical Hot Melt batch does list phenols as being present in either a gas or oil-fired application. The question remains are phenols present or not?

- Not disclosed in the ECA or the EDSM sec. 2.0 Ammonia as an asphalt binder which can be used as an anti-strip agent to extend the service life of pavements which might otherwise fail due to the effect of moisture-induced damage. Will ammonia be used or not? Is it reportable?
- Not fully reported out and in need of clarity under Supporting Information Assessment of Negligibility, Appendix B Table B-1. States for each contaminate (17) the emission rate is compared to the emission threshold. Of the 17 emissions listed, 9 were shown to be "not negligible" whereby the emission rate exceeded the emission threshold, is this normal, does this require more disclosure?
- In the same table, 3 liquid asphalt tanks and a dust silo (anticipated on the Napanee site) were not included in the calculations, instead a daily emission rate was used but not stated as negligible or not. Should they be stated?
- Not fully disclosed in the ECA or the EDSM, Odours not by name or specificity or how they are calculated in dispersion, who regulates the odour, how does the public know when levels have exceeded minimums other than their own sense of smell, what is the public notification process
- No study was completed to take into account the local prevailing wind patterns affecting dispersion because as stated in the Limitations section 9.0 of the ESDM, "no physical sampling of atmospheric emission sources was completed as part of the scope of this work"

- From the original Air Quality Impact Assessment Revision 1, Sept 2021, provided by Tomlinson to the public, they state in the summary of existing air quality concentration data used in the (2.1) Air Quality Impact Assessment: That the National Air Pollution Surveillance Network (NAPS) where most of the Tomlinson emission data comes from, explains there are no monitoring stations in the Napanee vicinity therefore they had to use predictive data from stations “located some distance away”. Additionally, it goes on to say there was no monitoring data available for the metals (arsenic, nickel and lead, contained in the emissions) assessed as part of this study.
- Specifically, the original Air Quality Impact Assessment Sept. 2021, report also states that because of the lack of actual monitoring data available in the area, Tomlinson had hoped to use the Belleville monitoring station results, however, there was not enough data at this location either so the next closest monitoring station was Newmarket Ontario, 205 kms west of Napanee. Even here not all of the data was comparable to Napanee, so remaining Carbon Monoxide data levels from Saint Anicet Quebec 230 kms north east were used in making the comparable data observations, supposedly similar to the Napanee area. Is this an acceptable use of data in an ECA especially when the ZBA locally has been rejected. And why is this information not stated in the EDSM dated March 2022?
- Also not fully disclosed in the Acoustic Assessment Report (AAR) or the ECA; The overall size of the footprint and scope of operations, understated in terms of square footage when considering all aspects of a permanent asphalt plant in full operation?
- The actual height of the facility including stacks and equipment? The Report states 5.2 m is the highest point of equipment, is that equipment only or is the structure or is that conveyors or silos? Are there wind considerations here as well?
- Addition of Concrete batching is mentioned in the Design Justification Report several times as being a key component to Tomlinson`s ICI business activities, should this not be disclosed in the ECA at this time as a possibility?
- Fulsome explanation of Nighttime operations which are subject to more "stringent" noise controls based on MECP noise guidelines. Not stated in the ECA in terms of frequency, intensity and hours of operation.
- In the identification of the sources of noise that will arise from the HMA Plant operations, the examples provided in the study were obtained from manufacturers data and from noise measurements of similar operations at other facilities in Ontario. Example; Baghouse Fan: 112.8 Db. From the data why is the size of fan not listed and the overall number of fans to be used?
- Example; Rotary Air Compressor 96.3Db, from the data why no mention of sizes in terms of hp or CFM. How much CFM as an example will each compressor move? How many will be on site, where they will be located, will they run in unison? Is sound not cumulative?
- The Occupational Health and Safety Act Ontario regulation requires that every employer shall ensure that no worker is exposed to a sound level greater than a time-weighted average exposure limit of 85 dBA measured over an 8-hour work day. Ministry of Labour. What does the time weighted average of exposure look like for the 19 POR (Point of reception) residents?

- Why only 19 POR residents measured, is this number of residents not understated?
- Specifically, from the Acoustic report; Pg. 29-30 Figure 5. and Figure 6.; Prediction Results, Worst Case Scenarios when all pieces run. The study describes "*recommended barriers*" does this suggest the barriers might not get installed? At which point do the residents get informed? What is the notification process to the public? More than 3000 residents have logged a concern to the proposed plant.:
- From the Acoustic Report table 7, pg23. Additional ques.
  1. *New Barrier required prior to operating the HMA Plant during the evening and nighttime period*
  2. *Alternative mitigation acceptable following approval by qualified acoustical consultant to ensure MECP sound level limits are met at all locations. This may include installation of a silencer and or relocation of the baghouse fan such the plant building provides the required shielding.*
- How will residents know when alternative mitigation will be required? Who decides if a silencer is required? Will residents be included in the decision - making process? How is this information reflected in the ECA and or the Acoustic report?
- Could more landscaping and berm detail be provided for the residents most affected. Will they have input into the design of the berm and the species of vegetation/ ground cover to be used?
- Will there be mention of specific emission control mechanicals employed and the anticipated acoustic data, example air scrubbers? Not mentioned.
- Are the cumulative noise issues related to an existing quarry currently operating adjacent to the proposed site accounted for in the noise study? (Revised June 01/2021)
- Who is responsible for the rehabilitation / security of the lands on the perimeter of the existing quarry sites both active and inactive on the Southwest side accessible from Hillside Street? Is there a long- term maintenance plan for berms and noise barriers? (Revised June01/2021)
- Because the proposed site is exempt from keeping seismic data records from blasting, how will residents know if the water table cap of 110m is breached? (Revised June 01/2021) Who monitors this? MNRF is unclear about site inspection responsibilities.
- Truck movements and the acoustics associated with individual trucks, trucks with trailers, highway trucks, ambient existing conditions and now cumulative infringement noises have already been recognized by residents and town officials to be understated due to an increase in demand meanwhile peak operations or permanent operations have yet to be realized. Residents have requested a new and revised third part review, is this possible?
- How does the public specifically adjacent residents (POI) become notified of air pressure vibrations and ground vibrations that accompany operational blasts?
- Why are current resident observations of the negative effects of blasting not reflected in the ECA or the Acoustic Assessment Report? What about previous complaints from residents, where are the records?

- Where is the public reporting process listed in the ECA or any of the accompanying documents in the case of an environmental impacting event?

**Item 2: Failed to fully describe**

- The cumulative Infringement noises (operational and material transfers) plus current ambient noise (highway) plus the addition of unwelcomed emissions and the now increase in heavy equipment traffic close to the Greater Napanee Golf Course, Historic Downtown, Residential housing, School bus routes. Where are resident concerns stated?
- The truck traffic itself despite being stated in conservative averages; has increased in volume per hour already, the size of the vehicle has increased by axle and length causing an increase in speed particularly on hills, as such they present noise issues in the core and represent a potential safety issue to pedestrians and cyclists in the downtown, near schools, and adjacent properties in and around the acoustic receptor limits of 420m.
- The cumulative negative effects on municipal roadways, shoulders and quarry entrances themselves, including the approaches leading up to the Hwy 2 main access road from increased traffic loads, wider turn outs and slip lanes official and unofficial.
- No description of an eventuality where the currently dormant Palace Road (CTY.Rd.5) access, clearly marked on the site plan as a secondary road, becomes active again, or the eventuality of the secondary County Road 2, "haul road" access leading to the RAP pile ever becomes a secondary main access. Who reports expansion of operations and where?
- Not described County Road 2 and Palace Road are EDR (Emergency Detour Routes) What are the cumulative effects on emergency response times with the increases in traffic at critical times?
- Not described the effects of high traffic industrial development, in close proximity to downtown retail and Springside Park recreation as an infringement of the air quality and acoustics, counter-productive to the many tourists related activities, boutique retailers, agri- business producers, food outlets, and recreation facilities nearby, who have invested much in branding this area as "recreation and tourist friendly" which is the "Naturally LA" marketing message.
- Public Input to date; not described to the ECA or the MOECP
  - 3000 residents signed a citizen group petition in opposition to the proposed asphalt plan
  - 600 residents signed on to local citizens group in opposition to the proposed asphalt plant
  - 300 lawn signs objecting to the proposed asphalt plant were posted on lawns in the town of Napanee
  - Tomlinson hosts an informal open house July 27, 2019 at the quarry to introduce Tomlinson to the surrounding community and answer residents questions. Not clear how the open house was communicated to the public or what the turnout was. No public feedback shared.
  - Virtual Tomlinson Community Meeting, October 14, 2021. 88 registered participants in advance, Tomlinson consultants and Admin addressed resident concerns through a facilitator. Ads were placed in local paper. Tomlinson received 143 questions about the proposal a summary of "What was Heard" was provided to participants digitally.

- Virtual Town of Greater Napanee Public Meeting, held February 24, 2022. Ads placed in local newspaper and on the Greater Napanee Town web site. A moderator was employed. Tomlinson and team presented, 13 residents offered public statements in opposition to the proposal, 10 mins each.
  - Public Open House, March 9th, 2022. Supplementary open house was provided by Town council to hear in person comments from the public and the applicant. Over 100 people attended, Tomlinson representatives spoke in support of the proposal, 21 residents spoke in opposition.
  - Town Council Regular Meeting April 5, 2022, held virtually. Town council votes unanimously to reject the Zoning By-law amendment requested by Tomlinson to have the temporary location become permanent.
- Not fully described, the Napanee River has been the backup water source for the town since 1982. If an emergency situation arises where transmission of water from Lake Ontario is interrupted for an extended period of time, the backup intake may be used. The Napanee River Backup intake draws water from the Napanee River at the head pond of the Springside Dam immediately upstream of Napanee Falls on the west bank of the river. Water is drawn by gravity through an operational gate, from a channel that brings water westward towards the treatment plant. As such this intake area of the river is located below the current Tomlinson Quarry site and is shown on the Tomlinson site plan as being a receiver of water draining from the quarry above. The current quarry operations already have as stated previously an ECA in place Issued for sewage works for the collection, transmission, treatment and disposal of quarry water (i.e. Stormwater and groundwater) collecting within the confines of the Quarry. And in this case the "disposal" means runoff goes to the Napanee River adjacent to a vulnerable intake.
  - *"Through the science of the Assessment Report, (available at [www.quintessourcewater.ca](http://www.quintessourcewater.ca)) zones were mapped that show which areas surrounding the water intake pipe are most vulnerable to pollution and contamination. These are called intake protection zones or IPZs."*
  - Additionally, according to the Cataraqui Source Protection, over 90% of the Cataraqui Source Protection area has been identified as a highly vulnerable aquifer (HVA) and/or a significant groundwater recharge area (SGRA). This hydrology combined with the shallow rock karst layering in the area are of particular concern to adjacent landowners with shallow dug wells who feel they are likely to be at risk of contamination from ground water runoff as well as the repeated vibrations and aftershocks of the blasting required to extract the necessary aggregates in the HMA process. Further study of ground water and negative impacts have been requested by residents and none is forthcoming. Is this not an environmental issue worth greater acknowledgement in an ECA request?
  - Not fully described from the Kingston Frontenac Lennox Addington Public Health Unit (KFLA) Report to Council: "As stated in documented supplied by Tomlinson, "Asphalt plants do not use water to produce asphalt, and water is not used at the plant for any purpose". And yet Water Trucks are mentioned in the Air Quality Impact Assessment report several times as being an integral part of a Dust Control Measure and then again Watering is also stated in the Best Practices Plan as a measure in controlling dust in the stockpiles and on the roads, including the addition of Calcium flakes.

- Not fully described in the ECA, water is the basis of the Storm Water Management plan, which needed to be amended as per an Inspection Report, action required; regarding drainage and discharge by the MNRF Aug 24, 2021. This type of relevant information needs to be reflected in the ECA and should be described in context when ground water concerns and vulnerability of the hydrology is potentially involved and yet not acknowledged by the applicant.

### **Item 3: Failed to consider**

- From the ECA sec. 3.3 Consultation / Notification Indigenous Consultation states:

*Could the proposed project / activity impact a body of water (eg. direct discharge) to which the box is checked No.*

- The notification as stated exists as an Indigenous consult requirement, which raises the questions where are the local indigenous leaders' comments, is there a document that verifies this declaration? In all of the documentation provided by Tomlinson and in their presentations, did the public see evidence of or hear from leaders of such a declaration?
- Tomlinson has suggested that expanding quarry and asphalt production on the current site will be a good climate reduction action because it will reduce travel (presumably emissions) to their existing customer base. The counter to this claim would be that expanding Hot Melt Asphalt production and transferring operations with the corresponding additional burning of fossil fuels in a concentrated area will negate any "climate benefits" to Tomlinson and compound the burdens of increasing the carbon footprint on the community of Napanee.
- From the KFLA Report to Council: "In terms of potential drinking water contamination, Tomlinson has explicitly stated that its operations will not impact surface or groundwater. More technical information related to the specific processes and chemicals used at the facility will help determine any potential sources of groundwater". And so in this statement by Public Health will Tomlinson provide this specific Hydrological technical information and when will it be provided?
- Failed to consider future residential developments as stated in the Town of Greater Napanee Strategic Plan that will see future expansion of Napanee directly to the east of the Tomlinson Hwy 2 access road and north along Palace Rd. (Cty. Rd. 5) to the 401. Residential housing developments, medium and higher density are needed to supplement current inventory and to do this future infrastructure (water and sewer) pumping station utilities need to be installed that will certainly conflict in location with an expansion of aggregate and asphalt operations in the centre of the targeted communities.
- The scale of the Tomlinson operation with the obvious high traffic disruptions, emissions and infringements has called into question the Land Use Compatibility of the overall zoning established in an industrial era that will be addressed in the next iteration of the Official Plan. Not very likely new homes or new retail will want to locate in the vicinity of large-scale industrial development. An example of industrial anxiety stressing developers in this location is the cancelled 100+ apartment building project and subsequent listing of the land, located only steps from the Tomlinson proposed site.
- At the most significant building site in Napanee town history currently underway, concerns have been raised by soon to be residents with purchased condominiums a year prior to the Tomlinson



proposal, who through no fault of their own may now have direct sightlines and emissions of the asphalt plant.

- Failure to consider fully the decommissioning and rehabilitation of their industrial site beyond their life expectancy. Current plans are mostly self-regulated and outdated especially since the proposed site pre-dates current MNR regulations. Given we already have plenty of local examples of poorly decommissioned abandoned industrial sites in Napanee, extra care should have been taken to offer the community assurance this will not happen again.
- Failure to consider ongoing local roadway maintenance and pedestrian safety considerations as the project scale and scope expands. Failure to consider their responsibility to the municipality for playing a part in the deterioration of the roadways, even before the plant is at or near full operation. The findings stated below are excerpts from the Traffic Study July 2020 taken before Covid well before the asphalt plant is even in operation or before the current site ramps up the extraction of aggregate.

From the Traffic Impact Assessment not provided to the ERO for consideration. Summary of Findings 3.1

1. *The County Road 2/County Road 5 intersection was found to operate with congested conditions effecting the southbound approach during the afternoon peak hour of travel demand. The level of service was found to deteriorate from the existing LOS "D" to a LOS "E" due to the addition of background growth east-west growth and an additional 9 asphalt plant trucks on the SB-LT during the peak hour.*
  2. *The County is encouraged to monitor the intersection should safety concerns or excessive delays become a concern.*
  3. *Consider a slip-lane configuration for the proposed site access to accommodate left-turn vehicle storage requirements for the heavy vehicle traffic approaching the proposed development. The design and arrangement of this left-turn lane would be determined through site plan control*
- No consideration at all for current pedestrian use, cyclist traffic, or school bus activity, which are all steadily on the rise in Napanee and most pertinent to the roadways being used by Tomlinson in and around the proposed site. Tomlinson did however suggest at the public open house the Town or County should undertake in their own Traffic Study.

## **Conclusion**

It is my opinion the ECA submitted by Tomlinson is very incomplete, it is very selective in how they are reporting their intended operations, Limited Operational Capacity is not defined, nor is it even clear what "limited" means.

My objections to the ECA proposal I hope are clear, from an individual resident / home owner`s perspective this process has to be fair to all Ontarians and not just developers. Therefore, it should be incumbent on Tomlinson to provide meaningful assessment data with direct local content, which I believe they did not provide.

Summarily Tomlinson by way of an incomplete ECA, failed to fully disclose all data, failed to fully describe the local context of their proposal and failed to consider the long-term negative effects on the community. A community who have objected unanimously as a council and loudly and profusely as residents to the Zoning By-Law Amendment and the proposed location of a permanent asphalt.

The predictive data sets used throughout the many reports offered by Tomlinson to represent conditions we could expect here in Napanee from their HMA plant, even if it were all applicable is largely conservative, inconclusive and not always geographically representative of Napanee conditions. The out of context modelling used by Tomlinson leaves too much to interpretation which favours their own needs, their own business plan and does not reflect the wishes or the needs of Napanee. Each report / assessment strategically understates adverse impacts and summarizes their operational position as, minimal to no harms expected, or unlikely to cause harm from a permanent asphalt plant and concrete batching operation.

Finally, a last reminder there is no data being reported on, that acknowledges the cumulative effects to residents of the increased acoustical disruptions to local ambient noise levels from the combined highway traffic, heavy equipment and intermittent blast noises, nor the cumulative long term effects to residents / environment over time of exposure to combinations of the 17 stated pollutants. As though somehow each sound and emission are merely a one off, or that they rarely occur together.

Given the understated nature of this submission and the indifference Tomlinson has demonstrated towards a deeply concerned public, I believe the Tomlinson ECA ERO number: 019-5565 application is just not good enough for the Environment and it's not good enough for the thousands of local Napanee residents like me who have said NO!

I appreciate the opportunity to comment.

Respectfully