



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

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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