



## The Regional Municipality of Halton

Report To:	Chair and Members of the Planning and Public Works Committee
From:	Mark G. Meneray, Commissioner, Legislative and Planning Services and Corporate Counsel
Date:	January 11, 2012
Report No. - Re:	LPS06-12 - State of Aggregate Resources within Halton Region

### RECOMMENDATION

1. THAT Report No. LPS06-12 re: “State of Aggregate Resources within Halton Region” be received for information.
2. THAT the Regional Clerk forward a copy of Report No. LPS06-12 to the City of Burlington, the Town of Oakville, the Town of Milton, the Town of Halton Hills, Conservation Halton, Credit Valley Conservation, Niagara Escarpment Commission, and the Grand River Conservation Authority for their information.

### REPORT

#### **Purpose**

This report provides Regional Council with an update on aggregate operations in and adjacent to Halton Region. Specifically, the report provides an overview of existing aggregate operations, advises on the status of Adaptive Management Plan Agreements and discusses active aggregate applications within and adjacent to the Region.

#### **Background**

Since 2007, Regional staff have been providing Council with reports relating to aggregate operations in Halton. The most recent updates were provided in 2009 in two separate staff reports dealing with active applications (LPS12-09) and monitoring of aggregate operations (PW-09-09/LPS108-09). During the Sustainable Halton process, the need for regular ongoing monitoring of environmental impacts from quarry operations and updates on rehabilitation plans was highlighted. In Regional Official Plan Amendment No. 38 (ROPA 38) aggregate policies were strengthened to include the requirement that a State of Aggregate Resources report be prepared no less often than every two years (S.110 (12)). This report consolidates active applications and monitoring of aggregate operations and fulfils ROPA 38 requirement.

## Overview of Aggregate Resources in Halton Region

### a) Active, New, Suspended, Revoked and Surrendered Licences

At present, there are twenty four licensed sites in Halton Region; the licences were issued by the Ministry of Natural Resources (MNR) under the *Aggregate Resources Act* (ARA). These sites are illustrated on Map 1 (Attachment #1), while comments on the operational status of each site are provided in Attachment #2 to this report. No new ARA licences, aggregate permits or wayside permits have been issued in Halton Region since 2007.

Eleven of the licensed sites had active aggregate extractions in 2010 as noted in Table 1. Information on the sites' activity and status was obtained from the Compliance Assessment Reports submitted by operators and the compliance-related MNR notices.

Table 1: Licensed Aggregate Sites in Halton Region with Active Extraction in 2010

<b>Municipality</b>	<b>Operation/Site Name (ARA Licence No.)</b>	<b>Current Owner</b>	<b>Annual Extraction Limit (tonnes/year)</b>
Town of Halton Hills	<sup>1</sup> Acton Quarry (5492) <sup>2</sup> Brockton Farms Quarry (20660) <sup>2</sup> Hilltop Quarry (5720) <sup>3</sup> Limehouse Quarry (5711) <sup>3</sup> Limehouse Quarry (5614) <sup>2</sup> Rice & McHarg Quarry (5716)	Holcim (Canada) Inc. Brockton Farms Brockton Farms Limehouse Clay Products Ltd (5711 and 5614) Rice & McHarg Quarries	4,000,000 20,000 20,000 20,000 20,000 20,000
Town of Milton	<sup>1</sup> Milton Quarry (5481 & 608621) <sup>1</sup> Halton Crushed Stone Quarry (5493)	Holcim (Canada) Inc. Halton Crushed Stone Ltd.	Unlimited 2,000,000
City of Burlington	<sup>3</sup> Hanson Brick Aldershot Pit/Quarry (5500) <sup>3</sup> Hanson Brick Tansley Quarry (613081)	Hanson Brick Ltd. Hanson Brick Ltd.	Unlimited Currently ½ of 300,000
Notes: <sup>1</sup> Dolostone Quarry; <sup>2</sup> Sandstone Quarry, <sup>3</sup> Shale Quarry			
Source: ARA Licences and Site Plans			

While there are ten licensed sites where extraction has been completed or aggregate resources have been largely depleted, some are continuing with other permitted activities (e.g. site backfilling, aggregate processing, stockpiling and distribution). Rehabilitation is occurring on parts of the Nelson Aggregate Burlington Quarry (5499). In 2010, 1294142 Ontario Limited Pit (5510) had its licence suspended for non-compliance with Site Plan conditions. The Hanson Brick Milton Quarry (5713) had its licence surrendered after completion of full rehabilitation in 2010. In 2011, following the 2005 and 2010 suspensions, Campbellville Pit (5478) had its licence reinstated to permit continuation of rehabilitation activities.

## b) Overview of Active Extractive Operations in Halton

This section contains information on the total area under extraction, the amount of aggregate produced and the primary destinations of these products. Information on active extractive operations was compiled from the annual Compliance Assessment Report (CAR) submissions and is provided in Attachment #2. In 2010, the total disturbed area for ARA licensed sites in Halton Region was 1,040 hectares, compared to the total area allowed for extraction which is 1,360 hectares. The four largest sites (Dufferin Milton Quarry (5481), Dufferin Acton Quarry (5492), Halton Crushed Stone Quarry (5493), and Nelson Aggregate Burlington Quarry (5499)) account for approximately 55% of the total ‘disturbed’ areas within the ARA licensed sites in the Region.

The Ontario Aggregate Resources Corporation (TOARC) was established by MNR in 1997 to manage rehabilitation of abandoned pits and quarries. TOARC also conducts production auditing, including the collection and disbursement of aggregate resource charges, and publishes production statistics. TOARC’s annual statistics for the Province and upper and lower-tier municipalities are posted on the website at [www.toarc.com](http://www.toarc.com). In 2010, over 7 million tonnes of aggregate was extracted from sites in Halton Region. Table 2 provides production tonnage statistics for 2008 to 2010 for Halton Region and its constituent Local Municipalities.

Table 2: Aggregate Production Tonnage (2008, 2009, and 2010)

<b>Municipality</b>	<b>2008 Licences</b>	<b>2009 Licences</b>	<b>2010 Licences</b>
Halton Region	8,545,063 tonnes	6,874,977 tonnes	7,233,113 tonnes
Town of Milton	4,487,238 tonnes	3,703,201 tonnes	3,725,413 tonnes
Town of Halton Hills and City of Burlington (total)	4,057,825 tonnes	3,171, 775 tonnes	3,507,699 tonnes
Source: Mineral Aggregates in Ontario, Statistical Update (2008, 2009 and 2010); TOARC			
Burlington’s tonnage could not be separated as TOARC’s guideline concerning minimum number of reporting producers for lower tier had not been met (Source: TOARC’s info, September 2011).			

In 2010, the Region of Halton was the fifth highest aggregate producer among the upper-and-single-tier municipalities in Ontario. The top ten upper-and-single tier producing municipalities were as follows: Ottawa (12,736,216 tonnes), Simcoe (10,255,428 tonnes), Durham (9,588,063 tonnes), Waterloo (7,471,972 tonnes), Halton (7,233,113 tonnes), Wellington (6,785,202 tonnes), Hamilton (5,312,663 tonnes), Middlesex (4,828,506 tonnes), Niagara (4,579,603 tonnes), and Kawartha Lakes (4,576,111). Information on the primary destination of aggregates was unavailable as this information is not collected by TOARC.

### c) History of Complaints on Extractive Operations and Transportation of Aggregate Products

Complaints related to extractive operations and aggregate transportation are to be directed to aggregate operators or MNR/MOE. In September 2011, staff enquired whether MNR received complaints in the 2010/2011 period.

Occasionally, the Region receives complaints on water quality and quantity from local residents living adjacent to aggregate operations. Water quality complaints are directed to Halton's Public Health Department where a Public Health Inspector carries out a well assessment and provides recommendations regarding well upgrades, treatment options and other matters. When a complaint pertains to water quantity, Public Health generally notifies the MOE and depending on the circumstances, may conduct well inspections jointly with Ministry staff. Following an inspection, MOE provides feedback directly to the resident regarding the water quantity issue.

Public Health received water quantity and water quality complaints from a resident near Nelson Aggregates Quarry in Burlington in 2008 and 2011, respectively. In 2008, staff notified MOE and also participated in an inspection carried out by the MOE staff. As it was determined that the water quantity problem was caused by the quarry operation, the matter was directed to Nelson Aggregates Inc. who installed a new well at this property. The 2011 inspection regarding water quality at this well revealed a break in the well-seal which required repairs by a well contractor. This work was financed by Nelson Aggregates Inc. There has been a discussion between the MOE and Nelson concerning potential replacement of other wells near the quarry; however, the Region has not yet received any notification in this regard.

If a water quantity complaint is received from a property owner near a site where the Region is a party to an Adaptive Management Plan Agreement, the Region's Aggregate Monitoring Coordinator notifies the operator and the MNR, and may undertake internal assessment if sufficient in-house data and information is available. In May 2011, the Region's Aggregate Monitoring Coordinator responded to a residential flooding complaint near the Dufferin Milton Quarry. The resident was concerned that the flooding was linked to the quarry's recharge system. Staff had responded to the enquiry promptly by notifying the aggregate operator and MNR and by undertaking in-house analysis of available information and data. Based on the in-house analysis, staff concluded that heavy precipitation in mid-May 2011 caused property flooding and that neither Dufferin's recharge system nor downstream beaver activity had influence on the flooding incident. Similar conclusions were provided by Conservation Halton and Dufferin.

### d) History of Violations of Site Plan or Conditions of Licence under the Aggregate Resources Act

To obtain information on violations of site plan/licence conditions, staff reviewed CAR submittals and available MNR correspondence. Based on these sources, it appears that most operators or their consultants have checked off 'in compliance' or 'not applicable' in their CAR submittals. Some CAR submissions and related MNR correspondence referred to minor non-compliance matters (e.g. missing information, fencing repair, etc.). Based on the 2010 notices, MNR requested CAR re-submissions for Acton Limehouse Pit (5480), Wilroy Brooks Pit (5546), and David Anderson Pit (5462). No re-submissions have been received by the Region.

Importation of 'inert' fill for rehabilitation purposes is permitted at most sites (i.e. in accordance with operation plans). It is not clear from the Compliance Assessment Reports whether operators are required to report on the fill quality to MNR/MOE. Most have not been required to implement a water quality monitoring program.

#### e) Status of the Implementation of Approved Rehabilitation Plans

Progress on rehabilitation of licensed aggregate sites in Halton was determined through the Compliance Assessment Reports. In total, about 525 hectares have been rehabilitated as of 2010, as compared to 1,040 hectares that had been extracted under the active ARA licences. By 2010, just over 400 hectares were rehabilitated at five of the largest sites (Dufferin Milton Quarry (5481), Dufferin Acton Quarry (5492), Halton Crushed Stone Quarry (5493), Nelson Aggregate Burlington Quarry (5499), and Springbank Leaver Pit (5619)). Between 2008 and 2010, about 130 hectares were rehabilitated at all aggregate sites in the Region.

Staff investigated the rehabilitation of old, abandoned, inactive sites in the Region under TOARC's Management of Abandoned Aggregate Properties (MAAP) program. This program is dedicated to rehabilitation of abandoned pits and quarries in the ARA-designated areas of the Province and is funded by the aggregate industry (paid for by producers through a charge of 0.5 cents per tonne of the annual license fee). TOARC indicated that other than sites where licence/permit has been revoked, they deal only with sites deemed abandoned (i.e. defined as former aggregate extraction sites that have not had a valid licence issued under the ARA since 1990), as inactive sites with a valid licence are outside of their mandate.

TOARC noted that Halton has 52 abandoned pits: two were classified as LNI (*Landowner Not Interested*), two were rehabilitated by MNR in 1994 and 1995, one was a MAAP project (1999), and nineteen were considered 'closed' (i.e. no longer regulated under the MAAP program). Of the remaining sites, TOARC identified through site visits in 2010 and 2011 that seven sites will require rehabilitation. Site visits were still required at twenty two abandoned sites to determine their status.

Operators sometimes submit site plan applications to amend rehabilitation plans/prescriptions. As of 2010, Campbellville Pit (5478), Hanson Brick Aldershot Quarry (5500) and David Anderson's Gravel Pit (5462) received MNR's approval for site plan amendment. Decisions concerning Acton Quarry (5492) and Hanson Brick Burlington Pit (5605) had not been made (based on the 2010 CARs).

#### f) Status of the Operation and Implementation of Approved Adaptive Management Plans

There are currently two Adaptive Management Plans in Halton Region: an AMP for Dufferin Aggregates Milton Quarry Expansion (ARA Licence #608621) and an AMP for Hanson Brick Tansley Quarry (Licence #613081). The Adaptive Management Plans were developed by quarry applicants, were subject to reviews by commenting agencies under the ARA process and had conditions included in the ARA licences issued in 2007.

### ***Dufferin Aggregates Milton Quarry AMP***

Dufferin Aggregates (currently Holcim Canada Inc.) entered into an AMP agreement with Halton Region and Conservation Halton in June 2003. The objective of the AMP is to maintain water resources to protect groundwater dependant features in the vicinity of the expansion lands. The Agreement provides, among other things, a framework to implement the AMP which ensures expeditious decision-making based on definable scientific and technical criteria. In 2008, a Protocol for Working Relationship was established to foster cooperation among the Parties in fulfilling their respective roles under the Agreements or any other legislative or regulatory obligations. Halton Region and Conservation Halton are to perform an ongoing role of overseeing the water management system.

Between 2005 and 2007, the Region, CH and MNR continued to work with Dufferin/Holcim and their consultants to ensure the Office of Consolidated Hearing Decision (OCHD) requirements and the Agencies' comments were reflected in the revised AMP. Following the issuance of the ARA licence in 2007, routine meetings were held between Halton, CH and Dufferin to discuss the protocol for a joint working relationship, the AMP implementation components and the status of the quarry operation.

Earlier this year, the Region received a revised AMP which reflected the Joint Board/OCHD conditions and input from Halton Region, CH and MNR, as well as several technical documents (*Implementation Demonstration Workplan for West Cell and East Cell Recharge System; Emergency Response Plan for Grouting; and Terms of Reference for Review of Spring Period Groundwater Target Levels*) for review. The Region provided comprehensive comments on all submissions. The Region also monitors and comments on the on-line *WebDT* data tool developed by Dufferin's/Holcim's consultant (Conestoga Rovers & Associates). This tool is used to assess performance of the water management system on an on-going basis.

Dufferin also submitted the *2010 Annual Monitoring Report* to the Region. Annual meetings on the yearly monitoring reports to Provincial Agencies (MNR, MOE, NEC), Halton Region, local municipalities, and Conservation Authorities (CH and CVC) have been held. Regional reviews of the annual monitoring reports focus on the AMP-related pre-extraction monitoring within the approved West and East Expansion areas and the zone of influence of the North Quarry extraction. The Pre-Extraction Report is expected to be released in November 2011.

Staff continue to participate in technical reviews and Working Committee meetings with Holcim and CH to advance the Region's comments.

### ***Hanson Brick Ltd., Tansley Quarry (Burlington) AMP***

As part of the Tremaine (Tansley) Quarry approval, Hanson entered into several separate Operating Agreements with Halton Region in May 2007, including an Adaptive Groundwater Management Plan (AMP) Agreement and Private Communal Water System (PCWS) Agreement. Earlier that year, Hanson entered into an Agreement with a number of private well owners comprising the Tremaine Neighbourhood Association (TNA). Both Agreements require Hanson

to ensure a continuous supply of potable water to property owners whose wells may be adversely affected by the quarry operation.

In accordance with the AMP, Hanson is required to submit annual monitoring reports to MNR, MOE and Halton Region. The delay in the 2009 and 2010 reports was attributed to difficulties in retrieving some operating data. Hanson noted that the rate of dewatering was higher than predicted (i.e. more than 50,000L/day) and that the on-going dewatering would require a Permit to Take Water from the MOE. The Region received the 2009 and 2010 monitoring reports in September and October 2011, respectively.

Hanson is also required to report any unusual water level or water quality data during the year, within 30 days of detection. Unusual data refers to changes in levels or quality which were not anticipated, based upon previous modeling and monitoring. Hanson's consultant (Long Environmental) indicated that no complaints had been received from the private residents in recent years. However, several residents requested and received cisterns and municipal water is delivered by water trucks as required.

- *Private Communal Water System Agreement*

The PCWS Agreement requires Hanson Brick Ltd. to construct a PCWS guaranteeing affected property owners with an alternative water system. It defines the number and locations of properties considered as "Eligible Properties" to be connected and serviced by the PCWS. The agreement also recognizes that the PCWS may, with the Region's approval be relocated, extended, replaced or altered in accordance with the AMP to ensure that additional users, whose private wells have been compromised by the Tansley Quarry are provided with a secure water supply. Annual financial and operational reports for the PCWS are required to be filed with the Commissioner of Public Works, once the PCWS is fully operational.

In June 2009, through Report No. LPS66-09, Regional Council approved the recommended alternative for the PCWS as it satisfied ROPA 32 requirements and the PCWS Agreement. Conservation Halton's approvals were received in August 2011. Construction of the linear infrastructure (watermains) is to commence in late 2011. The construction and the commissioning of the PCWS are planned for 2012.

g) Assessment of the Cumulative Impact of Extraction Operations on both the Greenbelt and Regional Natural Heritage System

Section 4.3.2.4 of the Greenbelt Plan calls for MNR's determination of the maximum allowable disturbed area of each mineral aggregate operation, indicating that *any excess disturbed area, above the maximum, will be required to be rehabilitated. Existing operations have 10 years from the approval of the Greenbelt Plan to complete rehabilitation, with 50% requiring completion within six years. For new operations, including expansions, the total disturbed area shall not exceed an established maximum allowable disturbed area.*

MNR issued a letter dated September 29, 2008, to the Acton Quarry (5492) requesting the Licensee to meet the rehabilitation quota in accordance with the Greenbelt Plan before February 28, 2011.

#### h) Number and Status of Active and Potential Applications for Mineral Resource Extraction Areas

This section discusses active applications within Halton Region and those external to Halton Region with the potential to impact the Region.

##### ***Active Applications within the Region of Halton***

- *Acton Quarry Expansion (Halton Hills), Dufferin Aggregates/Holcim (Canada) Inc.*

The current Acton Quarry is 205 hectares in size. Dufferin Aggregates/Holcim (Canada) Inc. submitted their applications for the Acton Quarry expansion on March 19, 2009, to extract dolostone from the Amabel Formation which caps the Niagara Escarpment. The proposed expansion areas are north and south of the existing quarry located east of Regional Road 25 and south of 22<sup>nd</sup> Sideroad (Attachment #1). Dufferin applied to amend the Halton Region Official Plan (2006), the Town of Halton Hills Official Plan and Zoning By-law and the Niagara Escarpment Plan, and also an MNR Class A (Quarry Below-Water) Licence to expand its existing Acton Quarry operation by 124 hectares; 99 hectares are proposed for extraction with no increase in the annual production limit (currently 4 million tonnes/year). This would allow for extraction of 71 million tonnes over 15 to 24 years.

Supporting documentation submitted by the applicant in 2009 and 2010 has undergone reviews by respective approval agencies and the Joint Agency Review Team (JART). The JART is represented by MNR, MOE, Halton Region, Town of Halton Hills, the Niagara Escarpment Commission and Conservation Halton, with input from peer review consultants.

Under the Aggregate Resources Act (ARA) process, the proponent has 2 years from the day of advertising in the local newspaper to address concerns and objections raised during the 45-day notification period. The proponent held the public session on June 1, 2010. The formal ARA Notification and Consultation process concluded on June 18, 2010.

Halton Region identified a number of concerns with the proposal which were outlined in Report No. LPS53-10. On June 2, 2010, Regional Council adopted a resolution objecting to the proposed Acton Quarry extension on the basis that it was premature to deal with the ARA matters, as technical information and planning matters remain outstanding. The Region advised the Minister of Natural Resources of its objection to the Acton Quarry expansion. Objections were also filed by the Town of Halton Hills, Conservation Halton and the Niagara Escarpment Commission. It is noted that a licence under the ARA can only be issued if the appropriate zoning and Niagara Escarpment Plan Development Permit (NEPDP) approvals to permit the expanded use are in place. However, before rezoning by the Town of Halton Hills for that portion of the expansion outside of the Niagara Escarpment Plan can be considered, the Regional Official Plan and the Town's Official Plan must first be amended.



In November 2010, JART held a Public Information Centre (PIC) to obtain comments on the proposed expansion. The proponent has continued work to address the agency review and consultation comments and a number of key areas remain outstanding.

- *Burlington Quarry, Nelson Aggregate Co.*

In October 2004, Nelson Aggregates Co. submitted an application for a new 82.3 hectare quarry on the south side of No. 2 Sideroad and across from the existing Nelson Quarry in the Mount Nemo area. Nelson applied to amend the Niagara Escarpment Plan (NEP) and obtain a Niagara Escarpment Commission Development Permit (NECDP). The operator also applied to amend the Regional Official Plan, the City of Burlington Official Plan and for a Ministry of Natural Resources Class 'A', Category 2 (Extraction Below Water Table) Quarry Licence.

In October 2009, the Nelson expansion proposal was denied by the Region, the City of Burlington, Conservation Halton and the Niagara Escarpment Commission. A detailed analysis of the technical documents submitted by the applicant was presented in the JART Report dated February 2009. JART also received comments and input from the general public, Nelson representatives and several public interest groups including Protecting Escarpment and Rural Lands (PERL).

Three subsequent revisions have been submitted by Nelson to reduce the size of the original proposed extraction area. The latest revision, submitted on May 4, 2010, proposed to reduce the extraction area to 42.3 hectares (from the earlier proposed extraction area of 51.6 hectares) which would allow for extraction of 26 million tonnes of dolostone aggregate over 13 to 15 years. The quarry license application area, which includes the proposed extraction area, protection lands and buffers is proposed to remain at 82.3 hectares. In early 2010, the Joint Board ruled that the company must submit separate applications for amendments to the NEP and the NECDP in order to process aggregate from the proposed expansion quarry.

The quarry license application went before a Joint Board consisting of the Ontario Municipal Board (OMB) and Environmental Review Tribunal (ERT) in late 2010. As of September 2011, the hearing has heard testimony from all of Nelson's consultants and has begun hearing testimony from opposing parties. The anticipated hearing end date is December 2011.

- *Wilroy-Brooks Pit Site Plan Amendment - St. Marys Cement Inc. (Canada)*

In 2002, J.C. Duff Ltd. initiated a site plan amendment for the Wilroy Brooks Pit located on Part Lot 24, Con. 5 in Halton Hills. The original licence was for a Class A pit above water with extraction of no more than 363,000 tonnes of sand and gravel per annum, within a total licensed area of 79.18 hectares. In September 2003, the applicant applied to the NEC for a Development Permit to extract about 405,000 tonnes of aggregate from two sites in an existing licensed pit and to rehabilitate the sites to an agricultural after-use.

In May 2006, a new owner (CBM Aggregates, a Division of St. Marys Cement), submitted technical reports for review by agencies (the Region, NEC, CVC, and Town of Halton Hills). CVC indicated that a portion of the subject property included the 'Black Creek at Acton' wetland and ESA; that Black Creek is classified as a coldwater fishery containing threatened aquatic species; and that it is CVC's policy to protect the form and function of the Environmentally Sensitive Areas and generally prohibit development within these areas. In October 2006, the Town of Halton Hills indicated that Town staff had no objection to the site plan amendment application as the subject property was located within a Mineral Resource Extraction Area under the Town of Halton Hills OP.

NEC, in their letter to MNR dated June 5, 2006, indicated that it was prepared to agree that the proposed expansions are minor but the proponent should consider Halton's and CVC's comments on maintaining the quantity and quality of the groundwater resources. NEC also requested that MNR not make a decision on the site plan amendment until such time as the NEC has made a decision on the Development Permit Application.

As the property is located within the two-year capture zone of the Georgetown water supply and is adjacent to the Black Creek, the Region requested an assessment of potential impacts on groundwater quality and quantity and strict enforcement of fill protocol by the proponent.

The site plan amendment application and Development Permit application were put on hold by the proponent until 2011. In April 2011, St. Marys staff organized a site visit for the commenting agencies to discuss outstanding matters for the Site Plan Amendment application.

- *Limehouse Quarry (Halton Hills), Limehouse Clay Products Ltd.*

The Limehouse Clay Products property is located northwest of Georgetown on Parts of Lot 23, Concession 8 in the Town of Halton Hills. The property consists of two Class B ARA-licensed areas (5711 and 5614), and is about 16 hectares in total size, a portion of which has been under extraction since 1985. In November 2010, Limehouse Clay Products Ltd., a subsidiary of JazBrick, applied to the MNR for a site plan amendment under the ARA to deepen the smaller of the two shale quarries (i.e. the 3.2ha quarry adjacent to 22 Sideroad) by 5 metres, with potential extraction below the water table but without an increase in annual extraction (20,000 tonnes).

In November 2010, a Niagara Escarpment Permit application was filed by the proponent. The NEC indicated that a decision on the Development Permit needs to be made before the MNR's decision on the Site Plan. In April 2011, the Region submitted comments to the MNR based on the review of the Level 1/Level 2 Hydrogeological Investigation and Natural Environmental Impact Assessment. Comments were also submitted by CVC.

Two separate meetings were held with the proponent's consulting team to further discuss the review comments. Additional submissions were reviewed by the Region and CVC in July and September 2011. A more comprehensive review will be completed on an *Addendum Hydrogeologic Investigation* report which was provided to the Region in November 2011.

- *Rice and McHarg Quarry*

Rice & McHarg Limited (Rice & McHarg) first applied for an NEC Development Permit to expand the existing quarry (5716) and increase depth of extraction, on October 13, 1995 (approximately one month prior to the approval of the 1995 Regional Official Plan). The 1980 Regional Official Plan allowed for an 11.3 hectare 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. The NECDP application was inactive for over 7 years and comments from other agencies, including CVC and Town of Halton Hills, were not provided. The Region commented on the application on November 6, 1995.

At the owner's request, the NEC re-opened the NECPD file in February 2003. The Region used the policy framework set out in the 1980 Regional Official Plan (Part III – B2d(iii)) which permitted '*limited expansion of the existing small sandstone quarries subject to Part IV – 16b, Mineral Resources Development Criteria*'. Consultants Morton Limited Partnership (MLP), provided the Region with a "Geological and Hydrogeological Assessment;" report which was subsequently reviewed by Hydroterra Limited on the Region's behalf. MLP was subsequently required to submit a Monitoring Plan and ensure that the Region's monitoring program recommendations are included in their PTTW and ARA licence applications.

Halton submitted comments to the NEC on August 31, 2005. The Region had no objection to the issuance of the NEC Development Permit subject to monitoring and fill-quality conditions. In 2006, the NEC noted that the owner was planning to change the boundary of the proposed expansion, as the formerly proposed site proved not to have great aggregate potential. A new proposal might be submitted in this regard. The application has been inactive since August 2005.

### ***Active Applications outside Halton with Potential to Impact the Region***

Active applications outside, but adjacent to the Region, include a proposal by St. Marys Cement Inc. for a new dolostone quarry in Hamilton and Brampton Brick's proposal for a new shale quarry in Brampton; the latter is referred to as the Norval Quarry. An overview of each proposal, their current status and the Region's position and participation in the review process are provided below. A summary of the Ontario Municipal Board Decision on the former Rockfort Quarry application by James Dick Construction Ltd. has been included as well.

- *Flamborough Quarry (Hamilton) - St. Marys Cement Inc. (Canada)*

In late 2004, Lowndes Holdings Corporation applied for a Class A licence for a proposed new quarry located in the City of Hamilton, on the west side of Milborough (Town) Line just north of Concession 11E and immediately west of the Town of Milton. In 2008, applications to amend the City of Hamilton Official Plan and related Zoning By-laws were submitted by a new owner, St. Marys Cement (Canada) Inc. The total site area is approximately 158 hectares of which 68.3 hectares (43%) has been proposed for dolostone quarrying of up to 40 metres in depth, with an

anticipated production of about three million tonnes a year, over a 25-30 year period. The remaining 92 hectares (57%) of the site had been proposed for licensing but not immediately for extraction.

In March 2009, the Ministry of Natural Resources (MNR) deemed the St. Marys application complete in accordance with the legislative requirements of the ARA. In 2009, the Region objected to the quarry proposal on the basis that it was premature to deal with the ARA matters while technical information and planning matters remained outstanding. Objections to the applications were also issued by the Town of Milton, City of Burlington, City of Hamilton, NEC, Conservation Halton and a rural community organization named FORCE (Friends of Rural Communities and the Environment). The rationale for the appeals primarily focused on the lack of completeness and accuracy of the background studies prepared by St. Marys in support of their *Aggregate Resource Act* and *Planning Act* applications.

In April, 2010, the Province (MMAH) issued a Minister's Zoning Order (MZO) under Section 47 of the *Planning Act* on the proposed quarry site, which ensures the lands proposed for quarrying will continue to retain their current rural land use designations. At the time, significant technical concerns remained outstanding and unaddressed by St. Marys. St. Marys has appealed the MZO and the matter has been referred to the Ontario Municipal Board (OMB).

In early March 2011, the Region and other CART (Combined Aggregate Review Team) agencies received a *Notice of Objector Response (NOOR)* from MNR and St. Marys. The objecting agencies had 20 days from the date of receipt of the *NOOR* to respond to the MNR and the applicant, with recommendations that may help resolve the agencies' objections. On March 22, 2011, the Region issued a response to MNR and St. Marys indicating that the remaining issues are unresolved and recommended that MNR not issue an ARA licence at that time. Conservation Halton, the City of Burlington, Town of Milton, City of Hamilton and FORCE also responded to the *NOOR* in March 2011. Agency staff did not make recommendations at that time to either MNR or St. Marys on ways to resolve the outstanding objection.

The first pre-hearing on the MZO appeal took place on April 1, 2011 at which time the Province declared that the material being discussed was considered to be a matter of provincial interest. As a result, any decisions made by the OMB would require confirmation by the Lieutenant Governor in Council, as provided for under the *Planning Act*. A second pre-hearing conference was held on April 29, 2011, during which the applicant's legal counsel indicated that they would inform parties by mid-May 2011 of St. Marys intention regarding the continuance of the OMB hearing process to address its appeal of the MZO. St. Marys subsequently advised that they would seek alternative relief outside of the OMB process to have the MZO revoked. St. Marys has since requested the OMB to indefinitely adjourn the hearing on the MZO, which was originally scheduled to commence in September, as well as all pre-hearing preparations.

In May 2011, St. Marys filed a Notice of Application for Judicial Review in the Superior Court of Justice. Staff have been advised that St. Marys has also filed a North America Free Trade Agreement (NAFTA) suit in response to the Province's MZO and is claiming in excess of \$275 Million in compensation for damages. Regional Staff will not participate in these court proceedings but will continue to monitor this matter to protect the Region's interest.

- *Norval Quarry (Brampton), Brampton Brick Ltd.*

The proposed Brampton Brick Ltd. (Brampton Brick) Norval Quarry site is located on the east side of Winston Churchill Boulevard (Regional Road 19), immediately northeast of the Hamlet of Norval, in the City of Brampton. The site is 34.9 hectares in size of which 9.35 hectares is proposed for extraction. Brampton Brick's anticipated production rate is 200,000 tonnes of Queenston Shale per year, with a total yield of 5.8 million tonnes from the proposed extraction area.

In response to a December 2008 Zoning By-law amendment application, the City of Brampton set up the Brampton Agency Aggregate Review Team (BAART) to coordinate the agency review efforts and to share technical expertise. The Zoning By-law Amendment application was deemed complete in January 2009. The ARA Licence application was submitted by Brampton Brick in August 2010 and was deemed complete by MNR in September 2010.

The formal ARA Notification and Consultation process concluded on December 20, 2010. During this consultation process, Halton Region issued an objection to the ARA application on the basis that it was premature to deal with ARA matters, as technical reviews had not been completed and there were unresolved planning issues (the zoning amendment application). The Region's objection letter, containing Regional Council's resolution, was issued on December 10, 2010. Other review agencies (Town of Halton Hills, CVC, City of Brampton and the Region of Peel) held similar positions.

On September 23, 2010, Halton received technical reports and related materials. The Region will utilize internal expertise and BAART's peer review consultants to formulate its response to the matters of interest and concern to the Region. As BAART will not be producing a final report on the applications, the Region will prepare a separate set of comments on the technical and planning submissions. An update on the status of the application will be provided to Regional Council upon completion of staff's reviews of the application and the supporting technical documentation.

- *Ontario Municipal Board's Decision re. Rockfort Quarry (Caledon), James Dick Construction*

The Rockfort and Westerveld lands that were subject to the former (1998) Rockfort Quarry application by James Dick Construction Limited (JDCL) are located in the community of Rockside (Town of Caledon, Region of Peel), approximately 1.2 km north of the Halton Region/Town of Halton Hills boundary. The property is 89 hectares in size of which 58 hectares were proposed for extraction of the Amabel Formation dolostone. The site is located immediately north of the Niagara Escarpment and is surrounded by agricultural uses, rural residential uses and environmental features.

The Region's primary interests included the natural environment, haul routes and protection of private wells. The Region's interests on natural environment were being addressed by CVC's representation at the hearing, with other Regional interests being monitored by staff as the hearing progressed. In the previous update to Council (Report LPS47-09, April 2009), staff noted that the

proposed haul routes were outside Halton's boundaries and that the Region of Peel's peer review covered potential impacts to private wells across municipal boundaries.

The OMB hearing took place between September 2009 and May 2010. The Board Decision dated November 12, 2010, dismissed the proponent's appeals and ordered MNR not to issue a licence under the ARA. Overall, the OMB concluded that the proposal would have unacceptable impacts on the significant cultural heritage, landscape and agricultural context of the area. Agreement by all parties that an unmitigated quarry was inappropriate, possibly resulting in a catastrophe for water dependant natural heritage features and functions around the site, contributed to the Board's decision. The Board was of the opinion that no public authority should be responsible for the cost of mitigation measures. The Board was clear that they did not want to leave protection of the natural environment to a third party with inadequate resources or approve a quarry dependant upon a complex, highly engineered adaptive management plan without appropriate agreements and conditions of approval in place. Additionally, it was stated that the requested Official Plan Amendments and Zoning By-law Amendment did not represent good planning.

## **Conclusions**

This Report demonstrates the Region's commitment to monitoring and reporting on the State of Aggregate Resources in Halton, in accordance with Section 110(12) and Section 206 (1.1)a [iii] in ROPA 38. Halton's contribution to aggregate production in the Province is significant. As a result, it is imperative that aggregate operations are monitored to ensure operations adhere to ARA and AMP specified conditions. It is clear that progressive rehabilitation is slow and that environmental monitoring has occurred at some of the largest sites with active extractions and at sites of proposed expansions.

The Aggregate Monitoring Co-ordinator will continue to actively monitor aggregate operations to determine the status of licensed sites, rehabilitation plans and implementation of Adaptive Management Plans and report to Regional Council, through the State of Aggregate Resources Report, on a bi-annual basis.

## **FINANCIAL/PROGRAM IMPLICATIONS**

The cost of monitoring aggregate operations in Halton is included in the Planning Services operating budgets. The costs related to AMP administration are recovered from the aggregate operators subject to AMP Agreements. Costs for Joint Board and Ontario Municipal Board hearings are included in the Planning Services' Capital Budget.

RELATIONSHIP TO HALTON REGION'S 2011-2014 ACTION PLAN

The subject of this staff report is not directly referenced in Halton Region's 2011-2014 Action Plan.

Respectfully submitted,



Ron Glenn  
Director, Planning Services and Chief Planning  
Official



Mark G. Meneray  
Commissioner, Legislative & Planning Services  
and Corporate Counsel

Approved by



Pat Moyle  
Chief Administrative Officer

If you have any questions on the content of this report, please contact:

Ron Glenn  
Gena Ali  
Alina Korniluk

Tel. # 7966  
Tel. # 7865  
Tel. # 7148