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31 March 2008

Ms. Kathy Woeller
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Mr. Michael Wynia and
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Ms. Kathryn Pounder
Planner
Niagara Escarpment Commission
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Dear Ms. Woeller, Ms. Pounder, Mr. Wynia and Mr. Uram:

**RE: APPLICATION FOR CATEGORY 2, CLASS A LICENCE
PURSUANT TO THE AGGREGATE RESOURCES ACT,
APPLICATION TO AMEND THE NIAGARA ESCARPMENT
PLAN, APPLICATION FOR NEC DEVELOPMENT PERMIT
AND APPLICATION TO AMEND THE TOWNSHIP OF
CLEARVIEW OFFICIAL PLAN, DUNTROON QUARRY
EXPANSION, WALKER AGGREGATES INC., OUR FILE
9811S**

The purpose of this correspondence is twofold: first, to provide further information regarding the proposed Adaptive Management Plan (attached) for the Duntroon Quarry Expansion and second, to formally amend the relevant applications.

Adaptive Management Plan

The proposed Adaptive Management Plan (AMP) is a program of enhanced monitoring and mitigation designed to ensure that the impacts of quarrying on water resources and significant natural heritage features remain within acceptable limits as predicted in the modeling and reports submitted in support of the expansion applications. Further, the AMP is designed to monitor, and maximize the effectiveness of, proposed ecological enhancement and restoration initiatives.

The proposed AMP is a system which establishes performance indicators, seasonal early warning values and seasonal action threshold trigger values. These qualitative and quantitative parameters are used to define three operating conditions for the expanded quarry: green, yellow and red.

The green zone represents normal operating conditions. The yellow zone is an early warning period that is indicative of a situation where a monitored parameter is approaching a pre-determined seasonal minimum or maximum value (the red zone), such that a protected feature may begin to experience abnormal stress. The yellow zone necessitates a modification to operations or additional mitigation to ensure that the feature in question is not negatively impacted. If monitoring reveals that the red zone is reached, then the quarry operator has a very brief time to immediately correct the issue or significantly alter operations (for example, move extraction area, move to a different lift or temporarily suspend quarrying in the area causing the impact).

The AMP can be likened to a "continuous review and improvement program" where parameters are constantly monitored, and if necessary updated, to ensure that the early warning values and action threshold trigger values continue to protect the relevant natural heritage features.

In the past, quarry applications were submitted with supporting documents detailing predicted impacts and proposed mitigation measures. The risk associated with approving the applications in the event predicted impacts were understated or mitigation was not effective, generally lay with the approval authorities. The proposed AMP effectively transfers the approval risk to the proponent. If the predicted impacts are understated and/or the proposed mitigation is not fixing the problem, then the onus is on the licensee to take the necessary steps to ensure that irreparable damage to significant natural heritage features does not occur. In the worst case scenario, the licensee could be forced to cease operations before quarrying is complete. In summary, the natural heritage features are protected, as predicted and the obligation and risk of ensuring same is transferred to the licensee.

The proposed AMP would be implemented under the Aggregate Resources Act (ARA) and under the Niagara Escarpment Planning and Development Act. (NEPDA) Under the ARA, it is necessary that site plans be prepared. The ARA site plans submitted for your consideration in October 2007, on page 2 of 4 (Operational Plan) included Hydrogeology Note 8 and Natural Environment Note 4 which both made reference to the AMP.

The ARA site plans have been further amended by adding new Notes 5, 6, 7, 8, and 9 to the Natural Environment Notes on the Operational Plan (and renumbering those which follow):

5. No extraction will take place until the Ministry of Natural Resources has confirmed that it is satisfied with the AMP. This shall not prevent site preparation prior to the MNR being satisfied with the AMP.

6. In the event one or more of the monitored parameter values of the AMP reaches the yellow zone (the seasonal early warning value), the licensee shall notify the Ministry of Natural Resources (MNR) within 72 hours of the licensee's knowledge that the yellow zone has been reached and will promptly:
 - a) investigate and assess existing circumstances;
 - b) determine the cause for the yellow zone occurrence;
 - c) provide a recommended action plan ;
 - d) if the cause is quarry related, take appropriate action to address the cause; and
 - e) notify the Ministry of Natural Resources as to the results of the corrective action.
7. In the event one or more of the monitored parameter values of the AMP reaches the red zone (seasonal action threshold trigger value), the licensee shall notify MNR within 24 hours of the licensee's knowledge that the red zone has been reached and will promptly:
 - a) investigate and assess existing circumstances;
 - b) determine the cause for the red zone occurrence;
 - c) provide a further recommended action plan;
 - d) if the cause is quarry related, take appropriate action to address the cause; and
 - e) notify the Ministry of Natural Resources as to the results of the corrective action.
8. In the event a seasonal action threshold value as identified in the AMP remains in the red zone for a period of one week from the notification of MNR, the licensee shall further notify MNR and provide a description as to how operations have been adapted (or suspended as the case may be) to address the issue.
9. Operations can only resume in the area which experienced red zone conditions as defined in the AMP when all measured parameters have returned to the yellow zone for a minimum period of one week, and evidence of yellow zone conditions is provided to MNR.

It should be noted that the red zone seasonal action threshold trigger values will be re-evaluated if operating in the red zone is shown to not result in negative impact.

Section 15 of the ARA reads: *"Every licensee shall operate the licensee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the licence"*. Accordingly, by incorporating the AMP by reference into the site plan notes, the failure to comply or adhere to the AMP has severe legally enforceable consequences to a licensee who fails to comply with the AMP.

The Minister of Natural Resources, under Sections 20 and 22 of the ARA has the ability to revoke, for a specified period of time, or suspend, a licence for any

contravention of the site plan or the site plan notes including notes pertaining to the AMP.

The site plan notes set out above can also be established as conditions of the Niagara Escarpment Development Permit. Section 24 (1) of the NEPDA sets out that no development can take place unless it complies with a development permit. Section 24(2) of the Act allows the Commission to establish conditions to a development permit. Substantial fines are established in Section 24(4) of the NEPDA if an operator proceeds in contravention of the development permit.

In summary, the AMP provides an added measure of protection for the identified water and natural heritage resources and can be legally enforced and implemented through the ARA and the NEPDA. We look forward to your input on the draft AMP.

Proposed Amendments to Walker Applications

Please accept this correspondence as our formal request to amend the Walker Aggregates Inc. applications for the proposed expansion of the Duntroon Quarry being the applications for: an amendment to the Niagara Escarpment Plan, a Niagara Escarpment Development Permit, an amendment to the Township of Clearview Official Plan and a licence under the Aggregate Resource Act (herein collectively referred to as "the Walker Applications"). The proposed amendments to the Walker Applications are as follows:

A. Hours of Operation

To date the Walker applications have been made on the basis of 24 hour operations with some restrictions relative to blasting, drilling and operation of the asphalt plant.

The Walker Applications, and specifically the proposed hours of operation, are hereby amended as follows:

1. Monday to Friday

- Stripping: 7:00 am to 5:00 pm
- Drilling: 7:00 am to 7:00 pm
- Asphalt plant operation: 7:00 am to 7:00 pm
- Asphalt plant shipping: 5:00 am to 5:00 pm
- Blasting: 8:00 am to 6:00 pm
- Operations including processing: 6:00 am to midnight (when plant is relocated to north of County Road 91, will enclose all crushers and screens)
- Shipping: 5:00 am to 5:00 pm
- Maintenance: 24 hours a day

2. Saturday

- Stripping, drilling, asphalt plant operation blasting, operations: 7:00 am to 3:00 pm

- Shipping: 6:00 am to 3:00 pm
- Maintenance 24 hours a day

3. Sunday and Statutory Holidays

- Closed except for maintenance

Outside these hours, any activity can only take place on an emergency basis or at the request of the Ministry of Transportation, the County of Simcoe or the Township of Clearview. Emergencies would include, but not be limited to, the following: floods, water main breaks, truck fires and declared weather emergencies.

The revised ARA site plans enclosed have been amended accordingly.

B. Boundaries of Licence and Niagara Escarpment Plan Designations

The applications submitted to date have been made on the basis that the entirety of the Walker expansion lands (including extraction lands and buffer lands) are included within the proposed ARA licence boundary. This has been done for two reasons:

- a) the buffer lands contain sensitive natural heritage features and greater protection of those features can be secured if they are within the ARA licence. This approach has been identified as an acceptable approach by the Provincial Cabinet
- b) while it is unlikely, it may be necessary to install injection wells within the buffer lands and if the buffer lands are within the ARA licence, there is an additional measure of ongoing public agency control.

We have always suggested that if there were other mechanisms to achieve our objectives that we were open to alternatives. We offer the following as an alternative which we believe will address the concern raised by the agencies regarding the limits of the proposed licence.

Subject to the qualifications noted below, the Walker Applications are hereby amended so that the proposed licence area is comprised of:

- the proposed extraction area;
- the proposed setbacks from Grey Road 31 and Simcoe Road 91; and
- the northerly setbacks from the wetlands and the ANSI.

The proposed area to be licenced is shown more particularly on the attached sketch. In addition, it may become necessary to install injection wells or other monitoring and mitigation measures within the buffer lands. Any appurtenances required for monitoring and mitigation will be considered to be within the limit of the ARA licence.

The ARA site plans prepared previously illustrated a licence area of 127.02 ha (313.88 acres). Based on this proposed amendment, the new licence area would measure 76.69 ha (189.5 acres).

In terms of the applications to amend the Niagara Escarpment Plan and the Township of Clearview Official Plan it is proposed that the licence area as defined above and on the attached sketch be designated Mineral Resource Extraction Area. The existing Niagara Escarpment Plan designations (Escarpment Rural, Escarpment Protection and Escarpment Natural) pertaining to the buffer lands would remain. However, the NE Plan and Township Plan amendment Applications are further amended to request the inclusion of the following special policies:

“The following permitted use is added to Part 1.5, the Escarpment Rural Area, Permitted Uses:

The Escarpment Rural Area lands located north of the Mineral Resource Extraction Area associated with Amendment xxx, may be used for installation of, access to, facilities and servicing for, and related to, the water management and monitoring system for the quarry extension. Any such works shall be subject to a development permit and any disturbance of lands shall be minimized. Extraction shall not be permitted.”

“The following permitted use is added to Part 1.4, the Escarpment Protection Area, Permitted Uses:

The Escarpment Protection Area lands located east of the Mineral Resource Extraction Area associated with Amendment xxx, may be used for installation of, access to, facilities and servicing for, and related to, the water management and monitoring system for the quarry extension. Any such works shall be subject to a development permit and any disturbance of lands shall be minimized. Extraction shall not be permitted.”

“The following permitted use is added to Part 1.3, the Escarpment Natural Area, Permitted Uses:

The Escarpment Natural Area lands located north and east of the Mineral Resource Extraction Area associated with Amendment xxx, may be used for installation of, access to, facilities and servicing for, and related to, the water management and monitoring system for the quarry extension. Any such works shall be subject to a development permit and any disturbance of lands shall be minimized. Extraction shall not be permitted.”

The Walker Application for NEC development permit covers the entirety of the Walker lands (extraction area, setback area and buffer lands) and is hereby formally amended to request that all facilities and servicing for, and related to, the water management and monitoring system for the quarry expansion, and access thereto, be included in the permit, notwithstanding the relevant Niagara Escarpment Plan land use designation and notwithstanding its location within the buffer lands.

The amendments to the Walker Applications are made on the understanding that, with the exception of the setbacks required from the ANSI or wetland the regulatory setbacks are measured from the entirety of the Walker lands (including the buffer lands) and not the licence limit. We hereby formally request

that the Ministry of Natural Resource deal with this as a request for relief from compliance and the ARA site plans have been modified accordingly.

To recap, the Walker Applications are hereby amended to reduce the limit of the proposed licence as shown on the attached sketch and as shown on the revised ARA site plans subject to:

- including the special policies for the Escarpment Rural, Escarpment Protection and Escarpment Natural land use designations as detailed above;
- the development permit application including specific reference to the necessary water management and monitoring facilities notwithstanding the NE Plan land use designation within the buffer lands as detailed above; and
- the MNR granting relief from compliance as set out in this correspondence and as summarized on the revised ARA site plans.

Conclusion

Walker Aggregates Inc. is genuinely intent on resolving issues with agencies and its neighbours. The October 2007 revised reports and detailed submissions, in our view, fully address the agency comments. The proposed modifications to the Walker Applications as set out in this correspondence directly address what we understand to be the primary neighbourhood concern: hours of operation. As well, this letter addresses one of the NEC's primary concerns: the extent of the licence limits.

If you have any questions regarding information set out herein, please call.

Yours truly,

MHBC PLANNING



W. Brent Clarkson, MA, MCIP, RPP

C: *Ken Lucyshyn*
Ed Lamb
Ron Plewman
Wayne Fairbrother
Additional parties identified on attached list

List of Circulated Agencies

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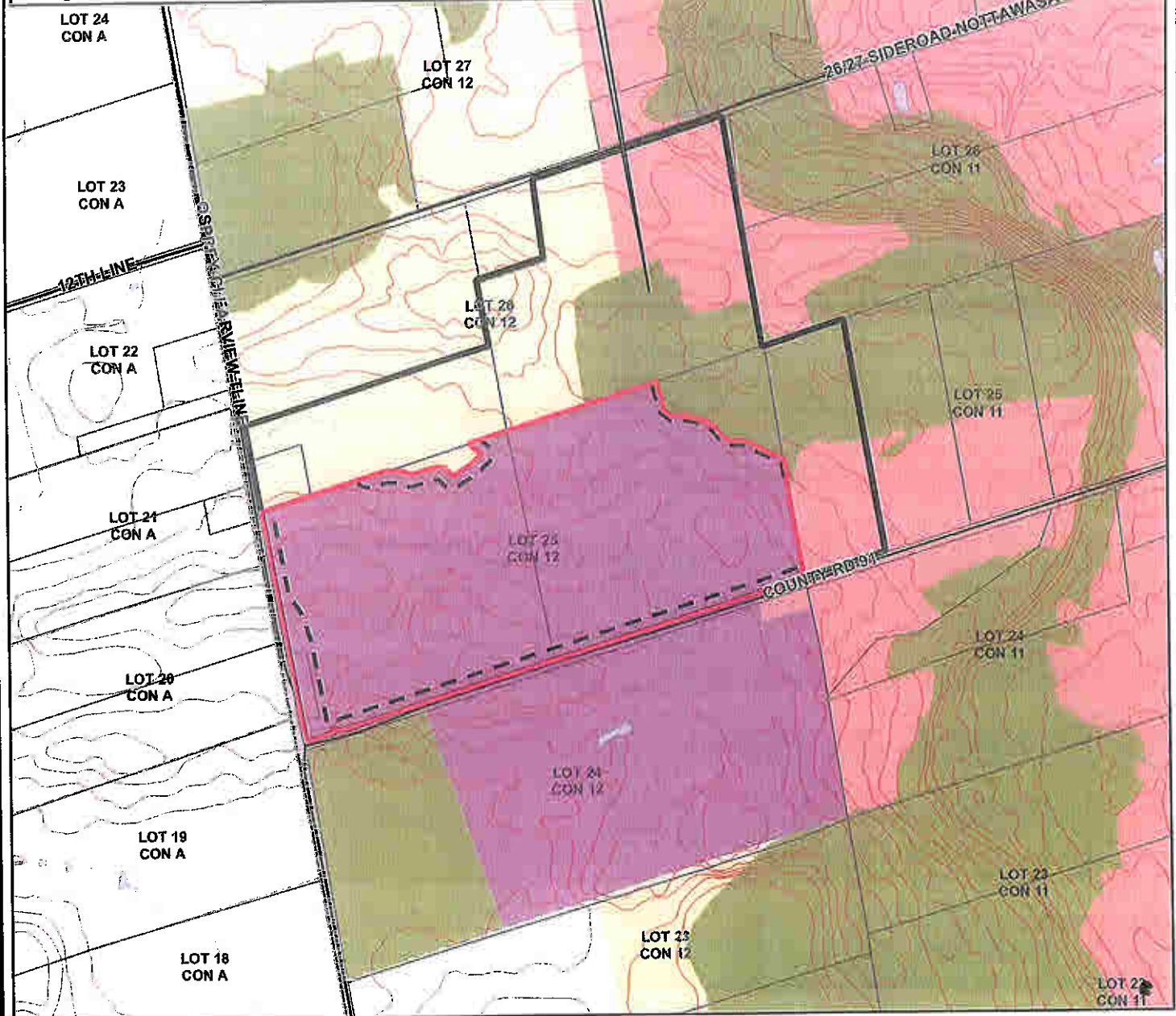
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Gary Shaw

To amend the Niagara Escarpment Plan by re-designating Escarpment Rural Area to Mineral Resource Extraction Area to permit a quarry and allow an asphalt plant. The remaining Escarpment Natural Area, Escarpment Protection Area, and Escarpment Rural Area designations on the Subject Property will be amended to allow the lands to be used for a buffer and for reforestation, water management and monitoring related to the quarry operation.

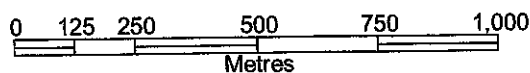


REVISED SCHEDULE A MAP SHOWING AMENDMENT PS 161 05



- | | | |
|--|--|---|
|  Escarpment Natural Area |  Escarpment Rural Area |  Subject Property |
|  Escarpment Protection Area |  Mineral Resource Extraction Area |  Proposed Licenced Area |
| | |  Proposed Extraction Area |

Scale 1:15,000



March 25, 2008

The Niagara Escarpment Plan Designations shown on this map are approximate and subject to confirmation through site inspection and the application of the "Interpretation of Boundaries" section of the Niagara Escarpment Plan.

This map is not a legal document and may contain errors or omissions.

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SOURCE:
Base derived from the Ontario Digital Topographic Database, Scale 1:10000
Map Compiled and Produced by the Geographic Information Systems (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources.

Revised by MHBC Planning, March 2008.