

Special Edition Stepping Stones



THE DUNTRON QUARRY EXPANSION NEWSLETTER

October 26, 2010

Message from Walker Aggregates' Vice-President

Weeks 14 and 15 of the Consolidated Hearings Board proceedings reviewing our application for an expanded Duntroum Quarry focused largely on noise, the road agreement Walker Aggregates entered into with Simcoe County and Clearview Township, and the possibility that our proposed quarry lands might contain habitat for the bobolink - which has been recently designated as being threatened under the Ontario Species at Risk Act.

The board heard testimony from Walker planning expert Brent Clarkson, Clearview Township's noise expert Nicholas Sylvestre-Williams, the Township's planner Michael Wynia, Walker ecologist Tom Hilditch and Simcoe planner Kathy Suggitt.

Walker has now completed its main testimony before the board, with Simcoe County and Clearview Township's witnesses now providing their testimony. Some of the testimony has been out of order due to scheduling conflicts and the fact that the board needed to hear testimony on the new bobolink issue.

Proceedings continue to take longer than planned, and it's now expected the hearing will end sometime in January. This has resulted in frustration for all involved parties.

Another frustration for Walker, at least, relates to rumours about our quarry plans and false allegations from our opponents. I invite any concerned member of the community to please call me to learn more about our proposal before taking these allegations at face value.

As always, please contact me with any questions at 705-445-2300 extension 224, or in Niagara at 905-227-4142, or visit our website at <http://walkerind.com/walker-aggregates/duntroum-expansion.html>.

A handwritten signature in black ink, appearing to read "Ken Lucyshyn".

Ken Lucyshyn

Walker's Experts Complete Their Main Testimony

It took 14 days on the witness stand, but Walker Aggregates' planner Brent Clarkson finally completed his testimony before the Consolidated Hearings Board reviewing the application for an expanded Duntroum Quarry. The end of Clarkson's testimony also marked the end of all of Walker's experts' scheduled testimony before the board.

In cross-examination, the lawyer for the Clearview Community Coalition (CCC), David Donnelly, asked about financial assurances that would be put in place to monitor and rehabilitate a mined out quarry if Walker was no longer a viable company. Donnelly asked Clarkson whether the Niagara Escarpment Commission (NEC) should have a say in the amount of money that should be put aside.

Clarkson replied, "I'm not sure why, all of a sudden, they'd have an interest if the application is approved... They have had no involvement in the AMP," referring to the Adaptive Management Plan Walker has developed to monitor and mitigate any unanticipated impacts from the quarry.

Later under redirect questioning by Walker lawyer Mary Bull, Clarkson was asked whether the NEC was asked to propose conditions for a development permit for the quarry. "Yes, and they refused to do so," Clarkson responded.

Donnelly also asked Clarkson a number of questions relating to the "net gains" that Walker was proposing in its rehabilitation plans to offset negative impacts

Continued on page 2

from the quarry. Clarkson agreed that part of the company's mitigation strategy is to offer net gains – in such areas as reforestation of lands around the extraction area – but that the board did not need to consider a net gain to the environment as part of mitigation plans.

Donnelly probed Clarkson on a wide range of issues such as whether a cow pond and a wooded area on the proposed quarry lands were significant wildlife habitat, and whether public consultation occurred prior to an agreement with Simcoe County to close a portion of County Road 91 between Road 31 and the eastern edge of the Walker lands.

Next, Clearview Township's noise expert told the Consolidated Hearings Board that he had six comments about a report prepared by Walker Aggregates' noise expert relating to the acoustical impacts of a proposed expanded Duntroon Quarry. Nicholas Sylvestre-Williams said he noted the comments in his peer review report and discussed them with Walker's expert John Emeljanow. "He addressed all the points I raised," Sylvestre-Williams said of Emeljanow's final report, and "I was satisfied with his response."

He said he agreed that the haul route for the proposed quarry down County Road 91 toward Duntroon was the preferred haul route from a noise perspective, and was satisfied that the noise levels from truck traffic and from operations within the expanded quarry itself would fall within Ministry of Environment guidelines.

He went on to say that the two noise experts met with their counterpart for the CCC, John Coulter, in late April and were not able to arrive at a statement of agreed facts.

During cross examination Donnelly challenged the view by both Clearview and Walker noise experts that the quarry was an expansion, as opposed to a new quarry. He questioned why noise levels along the haul route should be compared to levels that occur with the existing Duntroon Quarry, instead of being compared to noise levels if the existing quarry were closed.

Earlier Sylvestre-Williams testified that he believed the quarry is "clearly an expansion," noting that his firm and others he is aware of consider noise levels based on existing operations.

Walker's lawyer Wayne Fairbrother objected to Donnelly's line of questioning, arguing that if the CCC had a concern with the quarry application being considered an expansion, it should have included it as such on the list of issues before the board.

Chair Chris Conti agreed, telling Donnelly, "If the expansion wasn't included on the issues list, you can't expect the witness to include it in his witness statement."

Donnelly asked a number of questions about engine brakes on trucks and also about how truck traffic might compare to an airplane flying or a train travelling past. Sylvestre-Williams said it would depend on factors such as the type of plane or train, and how close they are.

In other testimony from Clearview Township, its planner concluded that an expanded Duntroon Quarry will result in no negative environmental impacts.

In a statement to the board Michael Wynia said, "The applicant has demonstrated to the satisfaction of the Ministry of Natural Resources, the County of Simcoe and the Township of Clearview that there will be no negative impacts on the natural features or on their ecological functions."

Wynia based his conclusions on his review of six issues from a policy point of view: threatened endangered species, wetlands, woodlands, wildlife habitat, areas of natural and scientific interest, and fish habitat.

In addressing a settlement the Township entered into with Walker Aggregates, he told the board that the company cannot proceed with Phase 2 of its quarry expansion until it satisfied the Township that reforestation efforts on the lands surrounding the extraction are appropriate and taking hold. He also spoke to the Township's requirement that Walker relocate a pond; limit truck traffic to 500 trips per day; extract a maximum of 2.5 million tonnes; not locate an asphalt plant on the site; and limit hours of operation for stripping, drilling, blasting, plant operations, shipping and maintenance.

Walker has no limit on its hours of operation at its existing Duntroon Quarry.

Other conditions under the settlement agreement include reducing the speed limit along the portion of County Road 91 from Duntroon to the quarry to 60 from 80 kilometers per hour, having Walker pay for a sidewalk in Duntroon, and pay the Township one cent per tonne of aggregate shipped to be used for the acquisition of environmentally sensitive lands and tree planting.

Wynia told the board that many of the concessions the Township required of Walker were in response to concerns expressed by residents, as was a subsequent road agreement. That agreement would see County

Road 91 west of Duntroon downloaded from the County to the Township, and the section from County Road 31 to the eastern portion of the Walker lands closed and transferred to the company. Wynia said the agreement was made in response to concerns expressed by citizens about the amount of traffic on that section of road and the traffic impacts. He also noted that the Township would gain up to \$10.5 million in nearby road improvements, but would only contribute \$1 million – the remainder coming from Simcoe County (\$2 million) and Walker (up to \$7.5 million).

Those are benefits to the Township's view of the public interest, he said.

At the beginning of last week, an ecologist hired by Walker Aggregates told the board that he and a bird expert have assessed the land proposed for an expanded Duntroon Quarry and says, "We concluded there is no bobolink habitat on the proposed extraction area." He drew the same conclusion for the adjacent buffer lands acquired by Walker for the purposes of reforestation.

Walker contacted Tom Hilditch after it learned that the bobolink bird had been assigned "threatened" status on the province's Species at Risk list in late September. Another ecologist hired by Walker to conduct a wildlife study reported a sighting of the bird on its proposed quarry lands in 2003, but not on a subsequent visit in 2005.

Hilditch told the board that he and bird expert Doug McCrae visited the Walker lands on October 5 and prepared their report on October 15.

Hilditch explained that the bobolink breeds in grasslands or grassy fields – particularly hayfields – that are typically 10 hectares or larger. He said they do not like to be near forest edges or in fields that are cultivated, planted with row crops – such as corn – or are used for heavy livestock grazing. He told the board that the proposed expanded Duntroon Quarry lands are primarily wooded areas, ploughed fields and meadows with herbaceous – as opposed to grassland – vegetation.

Hilditch did point out five areas in the vicinity of the quarry where there was potential bobolink habitat. One area was directly across County Road 31 from the proposed quarry, an area to the north near 26/27 Side Road, an area to the north of County Road 31 where it bends towards Rob Roy and two patches of land owned by Walker (which are not part of the quarry proposal) further along County Road 31 near where the rear boundary of the MAQ Quarry is proposed to be.

He said a breeding bird study done in June and early July would need to be undertaken to confirm whether those areas are actual bobolink habitat.

In cross examining Hilditch, the lawyer for the NEC, Orlando Da Silva, questioned the methodology used to undertake the 2003 and 2005 bird studies. He also asked what crops had historically been planted in the cultivated fields on the Walker proposed quarry lands. Hilditch replied that he did not know about the crops, but said the bobolink would require habitat of grass type fields that are over eight years old and are not ploughed.

Da Silva also wondered if the sound of blasting might disturb bobolinks, to which Hilditch replied that there is no evidence of that and that blasting is ongoing in the existing quarry.

CCC lawyer Donnelly then asked why a breeding bird study had not been undertaken this past year, after the federal endangered wildlife agency classified the bobolink as threatened in April. Hilditch said, "There's no point doing a breeding bird survey when the habitat is absent."

Hilditch ended his testimony by noting that the Ontario Ministry of Natural Resources will now need to work through how to determine what is bobolink habitat and how it should be managed.

At the end of last week's testimony, Simcoe County's manager of Policy Planning detailed the history of the agreement that led to the County downloading a portion of County Road 91 to Clearview Township and the Township in turn, closing a part of that road and transferring it to Walker Aggregates for its proposed expanded Duntroon Quarry.

Kathy Suggitt explained that in 1997, the Section of County Road 91 from Duntroon to Grey County Road 31 used to be County Road 63, and was classified as a secondary arterial road. County Road 91 east of Duntroon was a provincial highway at that time. When the province downloaded local highways to the County in 1998, the entire stretch of road from Stayner to Grey County Road 31 became County Road 91 with the portion east of Duntroon being a primary arterial road and the western portion remaining a secondary arterial road.

But Suggitt testified that things changed in 2006, with the recommendation of a staff report seeking approval to initiate the County's Transportation Master Plan and reclassify certain roads. In that report, the section of County Road 91 west of Duntroon would also become

a primary arterial road. This meant that the road would need to be upgraded with a 30.5-metre road allowance.

Suggitt told the board she understood that the County decided to reclassify the road as a result of higher anticipated traffic levels that would arise from developments in the area, including a possible expanded Duntroon Quarry and a potential new MAQ Quarry on County Road 31.

Suggitt had earlier testified that, "If the board determines that this application not go forward, the road settlement agreement is null and void."

She also spoke to other aspects of the County's review of the documentation and regulations relating to the expanded quarry application.

She affirmed that an agreement that led the County to download a portion of Road 91 to Clearview Township and the Township in turn, to close a part of that road and transfer it to Walker Aggregates for its proposed expanded Duntroon Quarry, is in the public interest.

During cross examination by David Donnelly, Suggitt was asked if she felt the agreement was in the public interest. "It is my opinion that yes, it is," she replied.

Donnelly also asked if the agreement was in the County's financial interest, to which she responded that the costs that would have been incurred to upgrade the road to primary arterial road standards "were substantial and well beyond what the County would allocate [to road enhancements] in any given year."

The CCC lawyer then asked if the County undertook an open and transparent process in making its determination to download the road. Suggitt explained that the decision came after years of discussion on such things as haul routes and road improvements, that a delegation appeared before council the day the decision was made, and that council dealt with the issue in closed session and then brought it into the open council process.

Simcoe County lawyer Ian Rowe objected to Donnelly's line of questioning, arguing that meetings dealing with "without prejudice" issues must be held in camera, according to the Ontario Municipal Act. Suggitt later noted that under that same act, no public consultation is required prior to downloading a municipal road.

Donnelly later enquired as to whether the County undertook a real estate valuation of the section of the road that was transferred to Walker under the agreement. Suggitt explained, "There was no need to, because it's a road." She also noted that the County would not value the road since County Road 91 from Duntroon to Grey County Road 31 was downloaded to Clearview Township, and it was the Township that transferred a portion to Walker.

Donnelly then asked if the County had considered tendering the road sale, to which Suggitt replied that it had not.

At the end of last week, as a result of an earlier request by the lawyers for the CCC and NEC, Walker lawyer Mary Bull disclosed details about past farming practices on the agricultural land that will become part of the expanded quarry if it is approved. She explained that Walker had continued to farm the land as a prudent agricultural landowner would do, and for tax purposes. She told the board that one farm section has been used to grow cash crops such as canola, soy beans and winter wheat; another section had been laying fallow for some years and was ploughed prior to September 25 in preparation for the spring planting of canola; and another section had been previously used for wood cutting and dirt bike riding. She told the board that none of these field areas had ever been hayfields, contrary to a claim Donnelly had made. Donnelly had alleged that a recently ploughed hayfield on the expansion property was bobolink habitat.