



**Ontario Federation of Agriculture**

**Ontario AgriCentre**

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**Submission to the**

**Standing Committee on General Government**

on the

Review of the Aggregate Resources Act

by

**The Ontario Federation of Agriculture**

**May 16, 2011**



The Ontario Federation of Agriculture (OFA) represents the interests of the majority of Ontario's farm families. Supported by over 37,000 individual members and 30 affiliated organizations, the OFA represents farm family concerns to governments and the general public. The organization is active at the local level through 51 county and regional federations of agriculture.

A number of years ago, the Middlesex Federation of Agriculture posted the following message on a billboard:

***Man, despite all his accomplishments, owes his entire existence to six inches of topsoil and the fact that it rains.***

While Ontario covers a vast and diverse area; 1.07 M sq. km. (415,598 mi<sup>2</sup>), with distinctly different geographic regions, a mere 5% of Ontario's land base is suitable for agriculture. Of that, a small proportion includes class 1, 2, 3 or 4 soils.

Currently there are almost 7 billion people in the world. The United Nations projects that number to rise to over 9 billion by 2050 - less than 40 years from now. Feeding ourselves and contributing to feeding the world on an ever reducing supply of productive agricultural land will be a formidable challenge. To do so, Ontario needs to maintain as much of its limited arable land as possible in agricultural production. So too must every other nation across the globe. We must ensure that our actions and policies do not unduly limit our ability to produce food, fibre and fuel, in perpetuity, from our limited agricultural land base.

According to the 2006 Census, there were 57,000 farms in Ontario with an area totaling 5.4 M hectares (13.3 million acres). Data from the recently released 2011 census shows an alarming decline in the number of farms - down 5,261 to 51,590 and a similar decline in the area being farmed. Ontario farms now encompass 5.1 M hectares (12.6 million acres), down 259,890 hectares (636,302 acres) over the previous 5 years. Whether this loss is due to urban expansion, or aggregate extraction, or both, Ontario cannot sustain an annual loss of 51,522 hectares (127,260 acres) per year while maintaining our ability to produce a higher volume food, fibre and fuel. Loss of productive soil by any means is simply not a sustainable practice.

As the stewards of highly productive agricultural land, Ontario farmers have a keen interest in ensuring public policy does not jeopardize or destroy that resource. Ontario's farmers require and deserve the assurance that the presence of aggregates on or adjacent to, one's farm will not be the end of that farm.

The Ontario Federation of Agriculture believes that society places too little value on our agricultural lands, the finite resource we depend upon for our existence. People are starting to again understand and care where their food comes from, and how it is produced. There is growing support and advocacy for the protection of domestic agricultural land. Ontarians are better understanding that the siting of alternative uses on our prime agricultural lands will limit our ability to continue to produce food.

Unfortunately, prime agricultural land is the one land use designation that seems to be sacrificed for many of society's needs including urban uses, aggregates, recreation and natural heritage.



The Ontario Federation of Agriculture, as Ontario's largest general farm organization, makes no apology for a strong agricultural land and soil protection bias. Our mandate is to advocate on behalf of our 37,000 individual farm families, for prosperous and sustainable farms.

As a province, we must minimize activities that lead to a loss of our agricultural lands and endeavor to strike a more appropriate balance between the need to protect agricultural land and the need for aggregates.

The OFA, therefore, recommends the following:

**Summary of OFA's Recommendations:**

- i) That the Aggregate Resources Act, regulations and operating standards be amended to acknowledge and protect the vital role of our agricultural lands.
- ii) That aggregate extraction be prohibited on prime agricultural land (classes 1-4), including specialty crop lands.
- iii) That the provincial government, under the Ministry of Agriculture, Food and Rural Affairs, report on the *State of Agricultural Soils Resource in Ontario*.
- iv) That the outdated phrase, "shall have regard to" in Section 12(1) of the Aggregate Resources Act be replaced by "shall be consistent with".
- v) That in areas where agriculture is the predominate land use, that rehabilitation must be to restore agriculture.
- vi) That a mandatory technical report on the nature of areas agricultural usage be required for every new license in a prime agricultural area.
- vii) That the provisions in the Provincial Standards (2.1.2) for Category 1 through 8 licenses be dropped in lieu of the mandatory technical report on Agricultural Resources, as noted above.
- viii) That the province implement a reasonable term for each license, in relation to the amount of aggregate present. Furthermore, that to extend a license, the operator must have clearly demonstrated reasons why an extension is required. Furthermore, this extension must be subject to a full public review, including the option to appeal the Minister's decision.
- ix) That a stronger commitment to rehabilitation in general, and rehabilitation back to agriculture be imbedded in the Provincial Standards and duplicated in the Provincial Policy Statement.
- x) That MNR develop and implement an inspection regime to verify rehabilitation actions and achievements that extends to at least 5-7 years after rehabilitation has been completed.
- xi) That the rehabilitation goals and objectives for area and soil fertility be achievable and measurable.
- xii) That MNR develop a mechanism whereby licensed operators are mandated to set aside funds, perhaps in trust, to ensure that pits and quarries are rehabilitated at the end of their life. Furthermore, that mechanism must be able to ensure that licensees do not use the presence of small amounts of aggregate as a pretense to avoid the costs of final rehabilitation.
- xiii) That a thorough review of the fees levied under the Aggregate Resources Act, including allocating a portion of the fee towards those "through" municipalities whose roads serve simply as the route from pit to end user.
- xiv) That users of aggregates must adopt specifications and purchasing policies that utilize recycled aggregates wherever technically appropriate.

- xv) That the license categories be refined - perhaps Class A being operations over 1 million tonnes per year, Class B for operations between 500,000 and 1 million tonnes per year, Class C for operations between 100,000 and 499,999 tonnes per year, and Class D for operations producing less than 100,000 tonnes per year.
- xvi) That amendments to the license and site plan must undergo a thorough public scrutiny and approval process.
- xvii) That the licensing process mandate more than 1 public meeting, and in areas where the predominate land use is agriculture, those public meetings must be scheduled outside of busy farming seasons.

We acknowledge that the Provincial Policy Statement (PPS) is under review at this time. Nevertheless, the PPS plays a key role in enunciating the provincial perspective on land use planning, through balancing a range of competing interests, and speaks directly to aggregate extraction; policy 2.5.2 (Protection of Long-Term Resource Supply), 2.5.3 (Rehabilitation) and 2.5.4 (Extraction in Prime Agricultural Areas).

The Ontario Federation of Agriculture believes that the PPS contains conflicting language, particularly when it comes to balancing the need to protect our agri-food sector [1.7.1(g)] and the protection of our prime agricultural lands [2.3.1], in contrast to the Mineral Aggregate policies [2.5].

Under the heading, "LONG-TERM ECONOMIC PROSPERITY", policy 1.7.1 (g) states that long-term economic prosperity should be supported by:

*"promoting the sustainability of the agri-food sector by protecting agricultural resources and minimizing land use conflicts".*

Then, under the NATURAL HERITAGE policies, 2.1.2 states:

*"The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features."*

Continuing on, policy 2.3.1 (AGRICULTURE) states:

*"Prime agricultural areas shall be protected for long-term use for agriculture."*

Lastly, policy 2.5.4.1 (MINERAL AGGREGATE RESOURCES, Extraction in Prime Agricultural Areas) states:

*"In prime agricultural areas, on prime agricultural land, extraction of mineral aggregate resources is permitted as an interim use provided that rehabilitation of the site will be carried out so that substantially the same areas and same average soil quality for agriculture are restored."*

*On these prime agricultural lands, complete agricultural rehabilitation is not required if:*



- a) there is a substantial quantity of mineral aggregate resources below the water table warranting extraction, or the depth of planned extraction in a quarry makes restoration of pre-extraction agricultural capability unfeasible;*
- b) other alternatives have been considered by the applicant and found unsuitable. The consideration of other alternatives shall include resources in areas of Canada Land Inventory Class 4 to 7 soils, resources on lands identified as designated growth areas, and resources on prime agricultural lands where rehabilitation is feasible. Where no other alternatives are found, prime agricultural lands shall be protected in this order of priority: specialty crop areas, Canada Land Inventory Classes 1, 2 and 3; and*
- c) agricultural rehabilitation in remaining areas is maximized."*

The protection and preservation of our valuable food-producing agricultural lands must not be treated in such a confusing, conflicting manner. Either our valuable food-producing agricultural lands have long-term value, as enunciated in policies 1.7.1 and 2.3.1, or our valuable food-producing agricultural lands have some second-tier status, behind aggregate extraction and other uses? The OFA recommends that Aggregate Resources Act, regulations and operating standards be amended to reflect and protect the vital role of our agricultural lands.

We see little solid evidence of widespread rehabilitation of former aggregate extraction sites, which likely were agriculture before extraction, back into agricultural uses. Too often rehabilitation means the creation of new recreational uses (parks, golf courses), residential developments or woodlots, grasslands and wetlands. Agricultural land is a strategic resource too, necessary to grow food for an increasing population; provincial, national, global.

The OFA firmly believes that the long-term protection of agricultural land, for food production, provides a greater societal value than does aggregate production. In our 2010 submission on the Provincial Policy Statement review, we wrote that:

*"aggregate extraction be prohibited on prime agricultural land (classes 1-4), including specialty crop lands."*

In the interim, nothing has changed to convince us otherwise. The OFA recommends that aggregate extraction be prohibited on prime agricultural land (classes 1-4), including specialty crop lands.

Agricultural potential, and the value of agricultural lands for food production, have not been assessed; neither have they been acknowledged in the *State of the Aggregate Resource in Ontario Study (Feb 2010)* or the *State of the Aggregate Resource in Ontario Study; Aggregate Resource Advisory Committee recommendations (June 2010)*. These deficiencies, in our view, emphasize the low value placed on our agricultural lands. Nevertheless, we view undisturbed agricultural soils as a **perpetual resource** - providing food for Ontario, Canada and beyond. The OFA recommends that the provincial government, under the Ministry of Agriculture, Food and Rural Affairs, report on the *State of Agricultural Soils Resource in Ontario*.

Current aggregate policies ignore the long term costs to agriculture from removing lands during the term when extraction is proceeding. There is the immediate and ongoing loss of productive land. Furthermore, there is the loss of production from lands under



extraction. Finally, there are the social costs; displaced farmers either exit the industry, or relocate to somewhere else, while farm supply businesses and services lose a portion of their customer base.

The Ontario Federation of Agriculture believes that Section 12(1) of the Act must be amended. It currently uses the outdated phrase, “*shall have regard to*” which was replaced in the Planning Act with “*shall be consistent with*”. The OFA recommends that the outdated phrase, “*shall have regard to*” in Section 12(1) of the Aggregate Resources Act be replaced by “*shall be consistent with*”.

With respect to Section 12(1)(d), “*the suitability of the progressive rehabilitation and final rehabilitation plans for the site*”; the OFA recommends that in areas where agriculture is the predominate land use, that rehabilitation must be to restore agriculture. No other option is acceptable.

Lastly, Section 12(1)(f), “*any possible effects of the operation of the pit or quarry on agricultural resources*” should be changed to a mandatory technical report on the nature of areas agricultural usage, including soil classification, the presence of both field tile drains and municipal drains, crop and livestock production, and local agriculture infrastructure (seed, feed, fertilizer, machinery dealerships). The OFA recommends that a mandatory technical report on the nature of areas agricultural usage be required for every new license in a prime agricultural area.

In the Provincial Standards (2.1.2) for Category 1 through 8 licenses, simple reliance on CLI soils classification is overly simplistic. Advances in crop varieties have enabled farmers to not only increase crop yields, but faster maturing varieties have enabled farmers to push the northern “limits” of crops such as corn and soybeans far beyond what was thought to be capable a decade or more ago. The OFA recommends that these provisions be dropped in lieu of a mandatory technical report on Agricultural Resources, as previously noted.

Aggregate extraction is permitted as an “interim use”, but no time limitations. Licensed pits and quarries often operate for decades, hardly a time period many would view as “interim”. The OFA recommends that the province implement a reasonable term for each license, in relation to the amount of aggregate present. Furthermore, that to extend a license, the operator must have clearly demonstrated reasons why an extension is required. Furthermore, this extension must be subject to a full public review, including the option to appeal the Minister’s decision.

## **Rehabilitation**

Aggregate extraction below the water table leads to a permanent loss of agricultural land. While the site may undergo rehabilitation, it nevertheless is permanently lost to agricultural production, a loss Ontario cannot afford to allow to continue.

Currently, the PPS does not require rehabilitation to an agricultural use if there is a “*substantial quantity of mineral aggregates below the water table*”. Nowhere is “substantial quantity” defined or described. Who determines this parameter, and on what basis is that decision made? Without definition there is no means to measure the rehabilitation requirement.



There needs to be a stronger commitment to rehabilitation in general, and rehabilitation back to agriculture, in particular. The OFA recommends that these principles be embedded in the Provincial Standards and duplicated in the Provincial Policy Statement.

The Ministry of Natural Resources must commit to mandatory inspection and enforcement to verify that rehabilitated lands are proceeding to pre-extraction levels of fertility and productivity (PPS 2.5.4.1). There must be financial penalties for operators who fail to achieve their rehabilitation commitments. The OFA recommends that MNR develop and implement an inspection regime to verify rehabilitation actions and achievements.

PPS requirement that rehabilitation achieves, “*substantially the same areas and same average soil quality for agriculture*” is vague. It also fails to recognize that in quarries, “*substantially the same area*” is a physical impossibility. In the case of both pits and quarries, the long-term “storage” of soils in berms negatively affects their fertility, and to achieve “substantially the same average soil quality for agriculture”, over the short term, is naive.

Rehabilitation, particularly if the goal is agriculture, must take a longer-term outlook on the restoration of “soil quality for agriculture”. Soils disturbed by pipeline construction, which may only last for a couple of weeks, are considered to be in a diminished state of fertility/productivity for 5-7 years after construction has been completed. If a short-term disturbance of the soil requires 5-7 years to mitigate, surely rehabilitation after decades necessitates a similar time, as a bare minimum. The Act, regulations and Provincial Standards must reflect this reality.

The OFA recommends the rehabilitation goals and objectives for area and soil fertility be achievable, measurable and that monitoring of pits and quarries undergoing rehabilitation continue for at least 5-7 years after rehabilitation is completed, to monitor progress towards the PPS goal of, “the same average soil quality for agriculture” as was present before extraction.

It seems that licensed operators put off final rehabilitation of their site, on the premise that a small amount of material remains. To us, these seem a mere pretext to avoid the ultimate cost of rehabilitation. The OFA recommends that MNR develop a mechanism whereby licensed operators are mandated to set aside funds, perhaps in trust, to ensure that pits and quarries are rehabilitated at the end of their life. Furthermore, that mechanism must be able to ensure that licensees do not use the presence of small amounts of aggregate as a pretense to avoid the costs of final rehabilitation.

## **Fees**

The OFA believes that the currently levied fees should be increased, but we have no specific recommendations on what level any new fee should be. We do note that the minimum fee for extraction on Crown Land is 50¢/tonne, far in excess of the 11.5¢/tonne for aggregates extracted from privately owned lands. The discrepancy is unacceptable.

Currently, no portion of the fee is allocated towards municipalities whose roads serve simply as the route from pit to end user. These municipalities bear the costs of road maintenance and repairs from aggregate truck traffic, but receive no share of the fees. The provincial share of 3.5¢/tonne can offset some of the costs of provincial highway



maintenance and repairs from aggregate truck traffic. This inequity must be addressed.

The OFA recommends a thorough review of the fees levied under the Aggregate Resources Act, including allocating a portion of the fee towards those “through” municipalities whose roads serve simply as the route from pit to end user.

#### **Additional recommendations;**

A review of the Aggregate Resources Act must also consider changes to the regulatory regime since last review, specifically the adoption of the Clean Water Act. The Aggregate Resources Act must clearly reflect/include a commitment to the protection of the Province’s drinking water resources. The aggregate sector must ensure their activities will not threaten our water resources.

Although many promote the use of recycled aggregates where practical, we continue to hear of biases against their use. Governments at all levels, who are the major user of aggregates, must adopt specifications and purchasing policies that utilize recycled aggregates wherever technically appropriate. The OFA recommends that all users of aggregates must adopt specifications and purchasing policies that utilize recycled aggregates wherever technically appropriate.

Currently, license amendments require Ministerial approval, but there is no obligation to notify site neighbours or the host municipality. Notification of both site neighbours and the host municipality should be mandatory.

For extraction on private land, there are two basic license categories, Class A for more than 20,000 tonnes per year, and Class B for less than 20,000 tonnes per year. Ministry of Natural Resources data indicates that of the 6500 licensed operation in Ontario, about 22 produce more than 1 million tonnes per year, and a further 63 produce between 500,000 and 1 million tonnes per year.

The proponents of the Melancthon Township quarry are indicating annual production of over 5 million tonnes per year. From our perspective, a 20,000 tonnes per year seems too small. The OFA recommends refining the license categories; perhaps Class A being operations over 1 million tonnes per year, Class B for operations between 500,000 and 1 million tonnes per year, Class C for operations between 100,000 and 499,999 tonnes per year, and Class D for operations producing less than 100,000 tonnes per year.

There needs to be better determination of what constitutes a significant amendment to an existing license. Furthermore, the public must have the option to appeal any amendments to an approved site plan. The original license and site plan went through public scrutiny and approval. The OFA recommends that amendments to the license and site plan must undergo a through public scrutiny and approval process.

There is currently a mandatory minimum of 1 public meeting. The licensing process should mandate more than 1 public meeting, and in areas where the predominate land use is agriculture, those public meetings must be scheduled outside of busy farming seasons, i.e. planting, haying, harvesting. The OFA recommends that the licensing process mandate more than 1 public meeting, and in areas where the predominate land use is agriculture, those public meetings must be scheduled outside of busy farming seasons.





We cannot diminish the critical role played by primary agriculture in the production of our food. As a province, Ontario must minimize activities that lead to a loss of our agricultural lands and endeavor to strike a more appropriate balance between the need to protect agricultural land and the need for aggregates.

The OFA thanks the Committee for receiving and considering the views of Ontario's farm community regarding the Aggregate Resources Act.

Respectfully submitted,

Ontario Federation of Agriculture  
May, 2012