



Ontario Federation of Agriculture

Ontario AgriCentre

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November 27, 2015

Ms. Katie Rosa
Aggregate Resources Officer
Ministry of Natural Resources and Forestry
300 Water Street
Peterborough, ON K9J 8M5

Dear Ms. Rosa;

RE: EBR Registry Number 012-5444 A Blueprint for Change: A Proposal to modernize and strengthen the Aggregate Resources Act policy framework

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 36,000 family farm businesses across Ontario. These farm businesses form the backbone of our robust food system and rural communities with the potential to drive the Ontario economy forward.

In our 2012 submission to the Standing Committee on General Government's review of the Aggregate Resources Act, the Ontario Federation of Agriculture emphasized that less than 5% of Ontario's land base is capable of supporting agriculture, and that the portion being used for agriculture has been declining. Continued consumption of agricultural land for non-agricultural uses not only impacts individual farmers, the cumulative impacts of these losses jeopardized the economic viability of agricultural.

Society places far too little value on our agricultural lands, the finite resource we all depend on for our existence. Prime agricultural land seems to be the one land use designation that can be sacrificed for other uses; urban expansion, aggregate extraction, recreation, natural heritage, etc. Prime agricultural land is not land awaiting some form of "development".

The OFA believes that maintaining Ontario's finite, and shrinking, agricultural lands for agricultural uses are the appropriate use of these lands. A number of provincial land use policies speak to maintaining agricultural lands for agricultural uses, but all too often their inherent value for agriculture is trumped by demands to put these lands to non-agricultural uses. A Blueprint for Change provides use with a fresh opportunity to include a strong agricultural land protection component in a modernized and strengthened Aggregate Resources Act policy framework.

OFA will focus its responses on those proposed changes set out in the Blueprint for Change discussion paper that impact farmers, farming operations and agricultural land.

1.1 Applications for Licenses and Permits:

a) Enhanced requirements for studying impacts related to the natural environment, water, cultural heritage, noise, traffic and dust

The requirements for water impact studies are an excellent proposal. With aggregate sites operating predominately in agricultural and rural areas, where private wells are the predominate source of potable water, OFA welcomes the enhanced study requirements. The proposed water impact studies should include water quantity and water quality data for all water wells within an impact zone.

The Ministry of Natural Resources and Forestry needs to ensure that water impact assessments consider all water wells in the vicinity of a proposed site, not only wells supplying households but also wells supplying water for livestock and irrigation. The OFA recommends that the proposed water impact studies should address the cumulative impacts of extraction on these wells as well as the cumulative impacts of extraction on farm ponds, which often rely solely on groundwater and precipitation for replenishment.

The OFA further recommends that it be a mandatory requirement that aggregate operators provide alternate water supplies to properties whose wells are negatively impacted by extraction operations, for as long as necessary.

OFA is in favour of the special provisions in the enhanced water impact study that will address aggregate proposals within the vicinity of a municipal drinking water supply well. However, it would be prudent to have provisions to allow the study to move beyond the 2-year-time of travel zone, particularly in areas with a high vulnerability scores. Consultation with the Source Protection Committee is warranted to ascertain that the potential risk of an aggregate extraction proposal to the municipal drinking water supply is minimized.

The proposed enhanced study requirements also includes noise, blast design, traffic and dust studies for all sites with nearby, sensitive land uses. We agree that residential and institutional land uses (schools, Churches, hospitals, senior's residences) are obvious examples of "sensitive uses". We believe that a number of other adjacent land uses should also be considered as "sensitive uses". A wide range of crops (fruits, vegetables, row crops) are negatively impacted by dust. In addition, harvesting equipment can also be negatively impacted by dust. So too, livestock operations are negatively impacted by noise, dust, blasting and traffic. The OFA recommends that full consideration of the agricultural impacts of noise, blast design, traffic and dust on agricultural operations are a mandatory requirement.

It is not clear who would qualify as the "qualified expert" to assess the area of study? The Discussion paper makes no mention of qualifications. The OFA recommends that the Ministry of Natural Resources and Forestry consult with stakeholders on the specific qualifications required by a "qualified expert".

b) New study requirements for applications on agricultural lands

The OFA welcomes the new requirement for an Agricultural Impact Study for extraction proposed on all prime agricultural lands. The recognition of the inherent value of agricultural lands for their ability to produce food is long overdue. We believe these new requirements should clearly include extraction proposed in specialty crop areas.

Agricultural Impact Study should also address;

- soil capability
- water resources
- climatic conditions, including local micro-climates
- type of farming operations; current uses and future plans
- Minimum Distance Separation
- location of sensitive agricultural uses
- agricultural biosecurity
- the role and contribution of farms to the local agricultural economy
- impacts of extraction on farm operations
- impacts of extraction on local farm support services and businesses

The OFA demands that the Agricultural Impact Study carries the same weight as the studies assessing natural heritage or cultural heritage impacts.

With reference to the proposed “pre-extraction agricultural capability (soil capability) statement” for agricultural lands outside prime agricultural lands/areas, OFA supports the requirements for this statement. However, we oppose its limitation to only sites licensed for more than 20,000 tonnes. OFA believes that a pre-extraction agricultural capability (soil capability) statement be required for all licensed sites, regardless of their annual tonnage limit, both below 20,000 tonnes as well as over 20,000 tonnes.

i) Updated communication requirements for applications

Proposed changes would recognize regular mail and email for objections to an application, as long as ones full name and mailing address are provided. The OFA supports this provision.

The OFA opposes the suggestion that notices for new applications are placed in local “free” newspapers. Is there any evidence that households who receive these papers actually read them? We fear that residents in the vicinity of an application will miss these notices, and therefore their appeal rights, because they fail to read a “free” newspaper. The OFA opposes this provision, especially if “free” newspapers become the sole means to communicate aggregate-related notices. It must be incumbent on aggregate operators that applications for new licenses, or any changes to an existing license that merits broad public notice, are communicate in ways that are shown to ensure the broadest public awareness.

1.2 Other Provisions Related to Applications

j) New requirements for requests to lower extraction depth to below the water table

Changing the extraction depth from above the water table to below the water table is not a minor change. It has the potential to negatively impact water wells and groundwater resources. The OFA supports the proposed requirement that would treat an application to lower the extraction depth to below the water table as a totally new application and subject to the new studies, including extensive hydrogeology studies.

k) New application for small, temporary extraction operations on farms

We understand that the purpose of this option is twofold; produce aggregates and to improve agricultural condition of the farm. It would allow for a limited amount of aggregate to be

extracted, and that the agricultural condition on the property maintained. The duration would be less than 12 months, and no more than 5,000 tonnes could be removed from the site.

While we support this in principle, we do have reservations with some of the specific requirements.

We believe that a 12 month limit may prove insufficient to allow for extraction to be completed, particularly if adverse weather or family circumstances interfere. The OFA recommends an extension to 18 or 19 months allow for 2 consecutive summer seasons to complete the work.

We view the 5,000 tonne limit as reasonable.

We oppose an application and tonnage fee for this activity.

It is not clear who would qualify as the “qualified expert” to assess the agricultural condition? The Discussion paper makes no mention of qualifications. The OFA recommends that the Ministry of Natural Resources and Forestry consult with the Ministry of Agriculture, Food and Rural Affairs, as well as agricultural stakeholders, on the specific qualifications required by a “qualified expert”.

While the requirements include that municipal zoning allows for the operation of a pit, we expect that the farmer will not be required to rezone his/her farm in order to utilize this option.

p) Provisions added to allow for peer review requirements for technical studies in the future

This provision would allow the Ministry of Natural Resources and Forestry to use outside reviewers of technical studies. Firstly, we assume this would include peer review of Agricultural Impact Studies? Secondly, and perhaps more important, does the Ministry of Natural Resources and Forestry propose to establish minimum qualifications for individuals wanting to be outside reviewers? Lastly, the OFA recommends that this provision be immediately adopted, rather than delaying its implementation to some future date.

1.3 New Tools

s) Extraction on Private Land for Personal Use

The proposed 300 m³ limit seems unduly small. We are aware that some municipal “fill” by-laws set a 1000 m³ limit. The OFA recommends the volume level for this be increased from 300 m³ to 1000 m³.

The proposal also requires that the excavated material must remain on the property. However many farm operations encompass multiple farm parcels, often not contiguous. How will these farms be treated? The OFA recommends that personal use should allow for movement of materials between farm parcels under the same ownership.

2.1 Studies, Information, Site Plans and Conditions

v) New ability to establish conditions on existing aggregate sites related to source water protection plans

After all of the work that has been put into protecting Ontario's municipal drinking water through Source Water Protection, it is imperative that aggregate activity does not threaten the water quality or quantity. OFA is in favour of the new ability to put conditions on existing permits related to source water protection plans.

Perhaps some of the "water protection" requirements should be extended to protect private wells supplying drinking water, adjacent to aggregate sites.

2.3 Changes to Reporting and Record-Keeping Requirements

x) New reporting requirements for site rehabilitation and for removal of recycled or blended materials

The discussion paper proposes to enhance rehabilitation reports. The OFA wholeheartedly supports these enhanced reporting requirements.

y) Establish new requirements for record-keeping on the importation of fill for rehabilitation

Import of fill for rehabilitation provides an opportunity to improve rehabilitation back to an agricultural use, through softer side slopes. The OFA does not oppose the concept of importing "clean fill" to improve the quality of site rehabilitation. In our view, it has the potential to improve the agricultural outcome of rehabilitation, and potentially improve the agricultural capability of rehabilitated aggregate pits. There is, however, an obvious need to link this to the Ministry of the Environment and Climate Change's work on "excess soils".

aa) Streamlining and changing the frequency of self-compliance reports

The discussion Paper proposes that the frequency of self-compliance reporting be changed from annually to every 2 years for Class A licenses and every 3 years for Class B licenses. We view a 2 or 3 year self-reporting cycle as too long. Too much time could pass before the Ministry would become aware of changes. The OFA recommends that the frequency of self-compliance reports should remain on an annual basis.

3.0 Proposed Changes to Fees and Royalties

The discussion paper does not propose any increase in the current 11.5¢/tonne fee. The lack of action on fees is disheartening. The lack of any fee increase means that the rehabilitation of abandoned and legacy sites will continue to be underfunded. The OFA strongly recommends that the Ministry of Natural Resources and Forestry reconsider maintaining the status quo on fees, so that the rehabilitation of abandoned and legacy sites is sufficiently funded.

The annual license fee is currently split between the local municipality, the County or Regional municipality, the Aggregate Resources Trust and the Province. The 0.5¢/tonne is to be used for abandoned aggregate site rehabilitation and research. We do not know how the trust allocates funds between abandoned aggregate site rehabilitation and research. Both are laudable endeavours. As noted, we want more funds dedicated to these. We also recommend that increased funds to the Aggregate Resources Trust be separated into two dedicated funds. One fund focused on research into improved methods of site rehabilitation, including the development of best practices guides for aggregate operators. The second fund would be dedicated towards abandoned aggregate site rehabilitation.

4.1 Other Changes

ao) Move specific requirements for applications, amendments and reporting from the Act to the Regulations or Standards

The OFA has no objections to moving requirements for applications, amendments and reporting from the Act to Regulations or Standards. This will remove the need to amend the Act to facilitate future changes.

The Ontario Federation of Agriculture recognizes the vital role aggregates play in building and maintaining a 21st century society. Nevertheless, we reiterate our long-standing position in favour of protecting Ontario's agricultural lands from any and all non-agricultural uses, including aggregate extraction.

Yours truly,

Sincerely,



Don McCabe
President

DM/pj

cc: The Hon. Bill Mauro; Minister of Natural Resources and Forestry
The Hon. Jeff Leal; Minister of Agriculture, Food and Rural Affairs
OFA Board of Directors