

November 1, 2019

Mr. Andrew MacDonald  
Natural Resources Conservation Policy Branch  
Ministry of Natural Resources and Forestry  
300 Water Street  
Peterborough, ON  
K9J 8M5

Dear Mr. MacDonald;

RE: Environmental Registry of Ontario (ERO) number 019-0556 Proposed amendments to the Aggregate Resources Act

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 38,000 farm family businesses across Ontario. These farm businesses form the backbone of a robust food system and rural communities with the potential to drive the Ontario economy forward.

The unfortunate reality with resource-extraction industries, such as aggregates, is that the resource they depend upon is where it is. Ontario's planning policies require the protection of our best agricultural lands and our key natural heritage features from incompatible development and our planning policies determine where future urban growth should go. Aggregate extraction has no choice but to locate their operations where the resource is. This makes the wise and rigorous government oversight of aggregates of the utmost importance. What then will be the public role in the applications, licensing and site operations? What rules will dictate how aggregate sites conduct their operations? Should aggregate licenses run for a fixed but renewable term, or be open-ended? Will the site be rehabilitated, and from an agricultural perspective, returned to an agricultural use? Who will ensure that an aggregate operator's rehabilitation obligations and commitments are fulfilled?

Before addressing the issues raised in this Environmental Registry posting, OFA emphasizes that there is only one Ontario landscape, meaning that the full range of landforms and land uses found across Ontario; urban, rural, agricultural, natural heritage, cultural heritage, aggregate extraction, etc. must share our one landscape. Inherent in this is the recognition that our agricultural areas not only provide us with food, fibre and fuel, but also with a broad range of environmental and ecological goods and services that benefit all Ontarians. These environmental and ecological goods and services, in alphabetical order, include; aesthetic and recreational space, air quality, including oxygen production, biodiversity, carbon sequestration, climate change mitigation, nutrient cycling, pollination services, soil erosion control, water cycling (purification, retention, flood mitigation, groundwater recharge), and wildlife and endangered species habitat.

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Based on the 2016 Census, Ontario farms encompassed 12.3 million acres or about 5% of Ontario's overall land area. Comparing the 2011 and 2016 censuses shows a decline in the area of farms from 12.6 million acres in 2011 to 12.3 million acres in 2016. The loss of almost 320,000 acres over 5 years equates to 63,940 acres every year or 175 acres every day. Ontario cannot sustain continuing losses of agricultural land while still maintaining our ability to produce food, fibre and fuel from a limited and declining agricultural land base. OFA firmly believes that the preservation of our productive agricultural lands for their ability to produce food, fibre and fuel is in Ontario's long-term environmental and economic interest. Agriculture is the principle resource-based land use in Southern Ontario. Through the 2014 Provincial Policy Statement (PPS), the protection of Ontario's prime agricultural areas for their long-term agricultural use is a key priority.

Aggregate extraction is touted as an interim use. While the resource in pits and quarries will eventually be exhausted, meaning that a pit or quarry's lifespan is finite, and the site will eventually be put to some end use, aggregate operations are by no means short term. Removing parcels of land from agricultural use impacts not only the farmer who farms the land, but the indefinite duration of pits and quarries negatively impacts neighbouring farm operations, as well as the businesses and support services that serve them and rely upon their agricultural output too. Part of their supply chain is removed. From the outside it may be viewed as only one farm, but where aggregates are found under one farm means they will likely be found under others. A number of pits or quarries will open in the area. It will not be one farm, but several. The land will be out of farming use for a decade or more; forever in the case of below water table sites.

From the Environmental Registry of Ontario (ERO) posting number 019-0556 Proposed amendments to the Aggregate Resources Act:

The Environmental Registry posting reiterates the key themes enunciated through the Ministry's Aggregates Summit and online survey, including protecting agricultural lands and water resources, and enhancing rehabilitation. These themes speak to core OFA issues. From OFA's perspective, it is positive that these key themes came through strongly in the Aggregate Summit held earlier this year. How they carry on in future amendments to the Aggregate Resources Act and regulations will tell us, and Ontario farmers, where protecting agricultural lands and water resources, and enhancing site rehabilitation fit within the province's overall land use objectives and goals.

Summary of proposed amendments to the Aggregate Resources Act:

- strengthen protection of water resources by creating a more robust application process for existing operators that want to expand to extract aggregate within the water table, allowing for increased public engagement on applications that may impact water resources. This would allow municipalities and others to officially object to an application and provide the opportunity to have their concerns heard by the Local Planning Appeal Tribunal.

A more robust application process for applications to extract within the water table is a good idea, but one that does not go far enough. The proposed "more robust" process should apply to not only within the water table aggregate license applications but also to above-the-water-table license applications. While within the water table, aggregate license applications merit greater scrutiny of their potential impacts on water resources, the above the water table license applications can impact groundwater resources and private water wells too. In previous Aggregate Resources Act -related submissions, OFA has emphasized the need to go beyond protection of municipal drinking water sources and include the private water wells that Ontario's farmers, rural residents and rural businesses are solely dependent on for drinking water, household water as

well as for watering livestock and poultry or for irrigation. During the license or permit application process, the water quantity and quality produced by private wells **must** be measured and recorded. Should aggregate extraction adversely impact either water quantity or water quality or both, the aggregate operator **must** be obligated to provide a sufficient volume of potable water to fully replace domestic uses, watering livestock or poultry or irrigation for as long as necessary. OFA recommends that any amendments to the Aggregate Resources Act ensure that private water wells are fully accounted for and protected against any loss of quantity, quality or both.

This bullet point states that municipalities and others may “officially object to an application and provide the opportunity to have their concerns heard by the Local Planning Appeal Tribunal”. We believe that deferring to an appeal for determination of concerns is unacceptable. It is too late in the process. Addressing water-related concerns as early as possible in the licensing/approvals process should be a mandatory component of the licensing/approvals process, and one that is best dealt with at that time rather than through an appeal to the Local Planning Appeal Tribunal. OFA recommends that the Ministry of Natural Resources and Forestry ensure that all water-related concerns, including private water wells, be an integral component of the aggregate licensing/approvals process.

- clarify that depth of extraction in pits and quarries is managed under the Aggregate Resources Act and that duplicative municipal zoning by-laws relating to depth of aggregate extraction would not apply.

OFA offers no comments on this proposal.

- clarify the application of municipal zoning on Crown land does not apply to aggregate extraction.

OFA offers no comments on this proposal.

- clarify how haul routes are considered under the Aggregate Resources Act so that the Local Planning Appeal Tribunal and the Minister, when deciding about issuing or refusing a license, cannot impose conditions requiring agreements between municipalities and aggregate producers regarding aggregate haulage. This change is proposed to apply to all applications in progress where a decision by the Local Planning Appeal Tribunal or the Minister has not yet been made. Municipalities and aggregate producers may continue to enter into agreements on a voluntary basis.

Haul routes are an important issue for farmers, particularly those whose farm is situated on a haul route. The aggregate licensing/approvals process needs to objectively address the legitimate agricultural implications and consequences from dusts, noises and aggregate truck traffic on farm operations close to haul routes. Dusts and noises generated from aggregate truck traffic can negatively impact crops and livestock. Dusts are abrasive and harmful not only to livestock feeding on these crops, but also to harvesting equipment. Noises disturb livestock and poultry, potentially compromising herd/flock health, resulting in reduced production and farm income. Increased aggregate truck traffic poses a challenge for farmers using these same roads with their slow-moving farm vehicles during planting, crop spraying and harvesting seasons. OFA believes that an agricultural perspective on haul routes is one that is overlooked by aggregate operators, municipalities and the Ministry of Natural Resources and Forestry. OFA recommends that the concerns of farmers whose farm is situated close to one or more haul routes be objectively considered during the aggregate licensing/approvals process, with requirements to avoid, minimize or mitigate the negative effects of dust, noise or truck traffic on agricultural operations.

Proposed amendments to the Aggregate Resources Act in Schedule 16 of Bill 132, the *Better for People, Smarter for Business Act, 2019* contains language OFA opposes. In proposed section 12. (1.1), it states that, “the Minister or the Local Planning Appeal Tribunal shall not have regard to road degradation that may result from proposed truck traffic to and from the site”. By totally ignoring the realities of road degradation by gravel trucks, the provincial government is callously ignoring the negative impacts of gravel truck traffic on municipal roads, to the detriment of these roads, and to the added costs shouldered by these municipalities and their taxpayers. Imposing such a burden is arbitrary, unfair and unnecessary. OFA demands that section 12. (1.1) be dropped from the proposed amendments to the Aggregate Resources Act.

- improve access to aggregates in adjacent municipal road allowances through a similar application process (i.e. amendments vs a new application) for an existing license holder, if supported by the municipality.

OFA offers no comments on this as it not applicable to agriculture.

- provide more flexibility for regulations to permit self-filing of routine site plan amendments, as long as regulatory conditions are met.

This proposal is dependent on what the Ministry of Natural Resources and Forestry considers a “routine site plan amendment”. OFA does not oppose the principle of “rules in regulation with registration”; we have supported their use in other Environmental Registry postings. However, we require specifics on what the Ministry of Natural Resources and Forestry considers a “routine site plan amendment” to provide definitive comments.

We do note that the text proposed to be added to the Aggregate Resources Act (section 13.1) is troublesome. Section 13.1(2)1. requires that in the absence of prescribed requirements, that the proposed amendment to a site plan be treated as an application for a new licence. This we support. However, it is the wording in section 13.1(2)2. that we object to, namely that where there are prescribed requirements, that the application conform to the prescribed requirements. Without certainty that these prescribed requirements will be as rigorous and as public as the requirements for a new licence, OFA opposes the wording in section 13.1(2)2. as currently written.

Potential Regulatory Changes:

- enhanced reporting on rehabilitation by requiring more context and detail on where, when and how rehabilitation is or has been undertaken.

OFA supports requiring “more context and detail on where, when and how rehabilitation has been undertaken”. Requiring aggregate operators to provide regulators and the general public with more site-specific details on rehabilitation progress and outcomes is positive and one that we support. OFA sees potential in the Ministry of the Environment, Conservation and Parks’ proposed “Excess Soils” regulations for the beneficial reuse of clean excess soil as a means to improve rehabilitation outcomes, e.g. side slopes that are less than 3:1, that results in a rehabilitated site that is both easier to farm and hopefully produces higher crop yields while also providing a place to reuse clean excess soils. OFA believes that Ontario needs to prioritize the rehabilitation of worked-out pits and quarries back to agricultural end uses as the first option for rehabilitation of former above-the-water-table aggregate sites in agricultural areas.

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- allowing operators to self-file changes to existing site plans for some routine activities, subject to conditions set out in regulation. For example, re-location of some structures or fencing, as long as setbacks are respected.

This proposal is dependent on specifically what the Ministry of Natural Resources and Forestry considers a “routine site plan amendment”. As previously noted, OFA does not oppose the principle of “rules in regulation with registration”, but specific details, beyond re-location of some structures or fencing, are needed on what “routine activities” the Ministry of Natural Resources and Forestry is considering and how a “rules in regulation with registration” would be constructed and implemented to comment further.

- allowing some low-risk activities to occur without a license if conditions specified in regulation are followed. For example, extraction of small amounts of aggregate if material is for personal use and does not leave the property.

If this refers to an ERO proposal (012-5444) from 2015 on “modernizing the Aggregate Resources Act” to provide for extraction of aggregates on private land for personal use, OFA supported this in principle in ERO 012-5444 from 2015, but we recommended a maximum volume of 1000 m<sup>3</sup> over the document’s proposed 300 m<sup>3</sup>. In 2015, we also recommended that farm use recognize that today’s farms consist of multiple, often non-abutting farm properties, operated as a single farm entity. OFA further recommends that this provision recognize all farmer-owned lands operated as a single farm site/entity and permit the movement of aggregates extracted on private land for personal use between individual farm parcels that make up a single farm site/entity.

- clarifying requirements for site plan amendment applications

To fully comment on this, OFA needs specific details from the Ministry of Natural Resources and Forestry.

- streamlining compliance reporting requirements, while maintaining the annual requirement

To fully comment on this, OFA needs specific details from the Ministry of Natural Resources and Forestry.

- reviewing application requirements for new sites, including notification and consultation requirements

To fully comment on this, OFA needs specific details from the Ministry of Natural Resources and Forestry.

#### Fees:

The Ministry of Natural Resources and Forestry last changed the fees and royalties levied under the Aggregate Resources Act in 2017. At that time, we supported an overall increase in the fees and royalties. We specifically objected to the miniscule increase in the allocation to the Aggregate Resources Trust, earmarked for pit or quarry rehabilitation and research. We believed that an increase from 0.5 ¢/tonne to 0.6 ¢/tonne would not achieve progress towards rehabilitating Ontario’s legacy of “abandoned” pits and quarries in a timely fashion. We proposed the allocation to the Aggregate Resources Trust be raised to 1.0 ¢/tonne. At this time, OFA recommends that

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the allocation to the Aggregate Resources Trust be raised to 1.0 ¢/tonne, to rehabilitate Ontario's legacy of "abandoned" pits and quarries.

OFA also noted that the structure of the fees and royalties levied under the Aggregate Resources Act overlooks the circumstances to municipalities situated along haul routes, but beyond the municipality where the pit or quarry is located. These municipalities bear the brunt of the wear and tear on their roads without any offsetting revenue from fees or royalties. This places an unfair financial burden on these municipalities and their taxpayers. Currently, fees and royalties are distributed between the Aggregate Resources Trust, the local municipality where the site is located, the upper tier municipality where the site is located and the Province. OFA recommends that the overall fee or royalty be increased, and that the increase be allocated to municipalities situated along haul routes, but beyond the municipality where the pit or quarry is located.

OFA welcomes this opportunity to provide its perspective on ERO number 019-0556, "Proposed amendments to the Aggregate Resources Act". We look forward to participating in future consultations on amendments to the Aggregate Resources Act, regulations, operating standards and fees.

Sincerely,



Keith Currie  
President

KC/pj

cc: The Honourable John Yakabuski, Minister of Natural Resources and Forestry  
The Honourable Ernie Hardeman, Minister of Agriculture, Food and Rural Affairs  
OFA Board of Directors