



April 2, 2008

Mr. Norm Elmhirst
President, Nelson Aggregate Co.
Nelson Aggregate Co.
Delivered in person to:
2433 No. 2 Sideroad.
Burlington Ontario, L7R 3X4

Ms. Cathy Douglas
Ministry of Natural Resources
Delivered in person to:
50 Bloomington Road West
Aurora, ON L4G 3G8

Re: Objection, Application for a Category 2 licence under the *Aggregate Resources Act*, Part of Lots 17 and 18, Concession 2, former geographic Township of Nelson, City of Burlington, Regional Municipality of Halton.

Dear Mr. Elmhirst and Ms. Douglas,

Please find enclosed Lake Ontario Waterkeeper's comments on the above-mentioned matter.

If you have any questions or comments, please do not hesitate to contact me at any time: (416) 861-1237.

Yours truly,

Mark Mattson
Waterkeeper & President

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PROUD MEMBER OF WATERKEEPER ALLIANCE

EXECUTIVE SUMMARY

Many of the concerns prompted by Nelson Aggregate's proposal involve matters of provincial policy and interest. The *Aggregate Resources Act* allows the proponent to liaise with the community to identify and resolve concerns, but Waterkeeper submits respectfully that this is not always the most appropriate method of decision-making. It is not Nelson Aggregate who should decide whether and how to protect Provincially Significant Wetlands or rare species. It is not Nelson Aggregate who should determine the importance of the region in the context of Ontario's environmental objectives and initiatives. And it is not Nelson Aggregate, citizens and volunteer organizations who should be negotiating over the future of public resources.

In light of the ecological significance of the region and concerns about the regulatory process to date, Lake Ontario Waterkeeper submits that the Ministry of Natural Resources should deny Nelson Aggregate's application for a quarry on the Niagara Escarpment and act immediately to protect and restore the area.

BACKGROUND

On May 31, 2006, Nelson's application for a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or a quarry - ARA s. 7 (2) (a) was posted to the Environmental Registry. Lake Ontario Waterkeeper submitted its comment prior to the deadline on June 30, 2006. At the time, Waterkeeper expressed concerns, particularly regarding the environmental sensitivity of the area and the lack of study and scrutiny.

The site in question is located on the Niagara Escarpment. The area includes some of the oldest forest ecosystems in eastern North America and a diverse range of plant and animal species. In order to assess the impacts the Nelson quarry may have on this precious area, a Joint Agency Review Team was created. This team includes representation from the Ministry of Natural Resources, the Ministry of the Environment, Conservation Halton, the Niagara Escarpment Commission, the Regional Municipality of Halton, and the City of Burlington. To date, this team has not completed its studies.

In the meantime, volunteer groups have undertaken studies and identified geologic, hydrogeologic, and other significant features in the area, including the Grindstone Creek Headwaters Wetland Complex.

COMMENTARY

Waterkeeper objects to quarrying on Mount Nemo

Despite Nelson's modest amendments to the quarry proposal, the area is fundamentally inappropriate for quarrying. The significance of the Escarpment are well documented by the Niagara Escarpment Commission and reflected in the region's UNESCO biosphere status. The importance of the site area's wetlands in particular is reflected in the province's assessments of the numerous Provincially Significant Wetlands and Areas of Natural and Scientific Interest. Furthermore, the importance of the region to the communities of Southern Ontario and to the province's planning objectives have been well-documented by initiatives such as the Ontario Greenbelt Alliance. Waterkeeper wholeheartedly supports efforts to protect and restore vital waterways. The Nelson Aggregate proposal does neither.

Appendix A provides a copy of one of Nelson/Stantec Consulting's maps which identifies fourteen ecologically significant areas surrounding the Nelson quarry. It illustrates clearly the quarry's location at the heart of Mount Nemo.

Waterkeeper objects to Nelson's proposal, as it is still unsupported by science

Back in 2006, Waterkeeper submitted that Nelson's proposal could not be approved until scientific review was complete. Two years later, this has still not happened. The Joint Agency Review Team has yet to complete its review or had an opportunity to release its findings to the public for consultation. While Nelson Aggregate has prepared additional studies, many of these studies raise more questions than they answer.

Appendix B provides a copy of the Blackport Hydrogeology report, commissioned by Protecting Escarpment Rural Land with the support of Lake Ontario Waterkeeper. This report describes a number of outstanding concerns that remain unresolved in Nelson Aggregate's proposal.

Waterkeeper objects to Nelson's proposal, as the regulatory review process is still underway

Waterkeeper understands that the *Aggregate Resources Act* requires that Nelson complete this consultation process before the end of two years. Unfortunately, there are so many outstanding regulatory review processes. Planning issues regarding the Niagara Escarpment Commission, the Region and the Municipality remain unresolved. The Permit to Take Water process has yet to begin. Furthermore, there is a two-year old request for a Consolidated Hearing -submitted by Nelson Aggregate - that remains outstanding. This consolidated hearing would deal with planning and aggregate resources issues simultaneously. Waterkeeper submits that it would be premature for to approve the quarry under the *Aggregate Resources Act* while Nelson's request for a consolidated hearing is still pending.

REQUEST

Many of the concerns prompted by Nelson Aggregate's proposal involve matters of provincial policy and interest. The *Aggregate Resources Act* allows the proponent to liaise with the community to identify and resolve concerns, but Waterkeeper submits respectfully that this is not always the most appropriate method of decision-making. It is not Nelson Aggregate who should decide whether and how to protect Provincially Significant Wetlands or rare species. It is not Nelson Aggregate who should determine the importance of the region in the context of Ontario's environmental objectives and initiatives. And it is not Nelson Aggregate, citizens and volunteer organizations who should be negotiating over the future of public resources. Members of government, including the Joint Agency Review Team, have recognized this to some extent.

In light of the above commentary, Lake Ontario Waterkeeper submits that the Ministry of Natural Resources should deny Nelson Aggregate's application for a quarry on the Niagara Escarpment and act immediately to protect and restore the area. In the alternative, Waterkeeper asks that the Ministry of Natural Resources defer the issue to a hearing, pending public consultation regarding the composition of the board.

In addition to this request, Lake Ontario Waterkeeper supports the research and objections presented by Protecting Escarpment Rural Lands (PERL) throughout the consultation process.