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October 16, 2017

*Sent via email to pebblebeachaggregate@sympatico.ca and  
jeff.schosser@ontario.ca*

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Jeff Schosser  
Aggregate Inspector, Bracebridge Field Office  
Ministry of Natural Resources and Forestry  
1350 High Falls Road  
Bracebridge, ON P1L 1W9

Dear Messrs. Villard and Schosser,

**Re: John Bacher Construction Limited Aggregate Permit Application  
Geographic Township of McClintock, Part of Lots 11 & 12,  
Concession 2, Township of Algonquin Highlands  
Response to Applicant's Comments on HLAR August 8 Correspondence**

Donnelly Law writes on behalf of our client, a concerned group of Harvey Lake Area Residents ("HLAR") to respond to comments from Mr. Villard dated September 24, 2017. For ease of reference, we have reproduced HLAR's original submissions in black text, Pebble Beach Aggregate's response in red text, and HLAR's response in dark blue text.

HLAR to registered their comments with respect to the above-referenced aggregate permit application (Category 9 and 11) (the "Permit Application") by John Bacher Construction Limited (the "Applicant") in the Township of Algonquin Highlands ("Township") per MNR policy pursuant to the Aggregate Resources Act and applicable Class Environmental Assessment Process.

## **Responses to the Applicant's Comments**

As I indicated at the Information Session, the MNRF CLUPA (Crown Land Use Policy Atlas) states that aggregate extraction is a permitted use in this area.

In the Township's Official Plan, Section 5.5.5. mineral aggregate extraction and associated uses are permitted uses within the areas designated "Mineral Aggregate" on Schedule "A". This designation identifies areas where mineral aggregate extraction is presently carried out and includes known public or private pits or quarries where extraction or harvesting has occurred in the last ten (10) years. The existing permit is identified on Schedule 'A'. Schedule "B" identifies areas where mineral aggregate deposits may exist and have the potential to supply aggregate demand in the future. There is a good degree of overlap between the area outlined on Schedule 'B' and the proposed area for the Permit.

It is my understanding that MNRF will meet with the Township to discuss the Resolution passed by council.

**HLAR's response: As the Applicant is aware, the provisions of section 5.5.5 of the Official Town Plan are further conditioned, as follows:**

**5.5.6 All extraction operations should be undertaken in a manner that minimizes impacts on the physical environment and adjacent land uses, after issues of public health, public safety and environmental impact have been addressed"**

**5.5.8 A new Aggregate Quarry requiring an Amendment to this Plan shall be limited to areas:**

- **Farther than 300 metres from a residential or sensitive land use;**
- **Farther than 1,000 metres from a boundary of a Settlement Area; and**
- **Farther than 1,000 metres from the Waterfront designation.**

**We submit Permit Application fails to meet these tests. While there is a pit is on the current site, the language is very specific to a "quarry" and the Permit Application would thus constitute a new quarry. MNRF Policy A.R. 2.01.03 is also very clear that all applications for new aggregate extraction are new operations. New aggregate quarries such as the Permit Application must be 1,000 metres from a Waterfront designation. This proposal is a mere 170 metres from Harvey Lake.**

**The Township clearly indicated its position that the necessary planning permissions be obtained by the Applicant.**

In brief, it is our client's respectful submission that the Permit Application should be elevated to a minimum Category "C" Class Environmental Assessment ("EA"). The project ought not proceed as it poses a threat to the environment, the habitat of rare and threatened species, water quality, public safety, use and enjoyment of private property, and may also pose a significant impact to Aboriginal rights. The project also contains numerous uncertainties regarding its potential impacts and proposed mitigation, as examined below. Further, Mr. Villard advised on July 29, 2017, that the Site Plan Notes are currently under revision.

**This is a normal process during the consultation phase in preparing to submit a final draft to MNRF. The notes will continue to be modified after input from concerned citizens and ongoing consultation with MNRF.**

**HLAR's response: We reassert the request to elevate this Permit Application to a higher category Class Environmental Assessment. The project ought not to proceed as it poses a threat to the environment, the habitat of rare and threatened species, water quality, public safety, use and enjoyment of private property.**

**Further, we note that our objections cannot be resolved without the occasion to review the final proposed site plan notes.**

Please note these comments and objections are based on an unconscionably short timeframe to review all available application materials, and include advice based on review of these materials by professionals with experience in the aggregate industry and a University of Toronto Associate Professor in the Department of Earth Sciences<sup>1</sup>. As a result of the short timeframe for review in the summer holiday season, lack of agency comments and peer review, the possibility of changes to the application, new information being required of the Applicant, **To date I am not aware of any new information required of the applicant** and a possible bump-up request to a different Class EA Category, HLAR could not formally retain consultants for on-the-record comments, putting citizens and nearby residents at a distinct disadvantage.

**The applicant followed the timelines as specified in the Provincial Standards and as requested by MNRF.**

Our comments are organized in this correspondence as follows:

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<sup>1</sup> Dr. Sharon Cowling, University of Toronto, St. George Campus. Dr. Cowling reviewed the Hydrogeological Summary Statement and Natural Environment Report.

- Background Information
- Request for Notice and Comments
- HLAR's Detailed Comments on the Permit Application:
  - (a) *Effect of the operation on the environment: Noise and Noise Impact Analysis; Dust and Dust Impact; Drainage; and Natural Heritage (including wetlands, turtles, amphibian breeding habitat)*
  - (b) *Effect of the operation on nearby communities: Visual Impact; Safety Concerns; and Noise*
  - (c) *Municipal comments*
  - (d) *Suitability of progressive and final rehabilitation plans*
  - (e) *Possible effects on ground and surface water resources.*
  - (g) *Planning and land use considerations.*
  - (h) *Main haulage routes and proposed truck traffic to and from the site.*
  - (i) *Quality and quantity of aggregates on site.*
  - (j) *Size of the permitted area.*
  - (k) *Applicant's past history of compliance.*
  - (l) *Environmental Assessment Act (EAA)*
  - (m) *Other matters considered appropriate: MNR Policy Statement of Environmental Values; Ontario Wetland Strategy; Annual Maximum Tonnage; Non-Compliance with MNR Policy; Cultural Heritage; Aboriginal Consultation*
- Comments on Class Environmental Assessment Process and Categorization
- Request for Referral of Technical Reports to MOECC
- Conclusions

## Background Information

Following amendments to the Permit Application, the proposed Extractive Area is 21.85 ha (53 a), with an extraction limit of 14.85 ha. This is an extremely large extraction footprint, comparable to some of the recently approved mega-quarries on the Niagara Escarpment, which undergo a comprehensive assessment process lasting several years. To put the Permit Application in its local context, aggregate operations in the vicinity range from 0.5 ha to a Ministry of Transportation (“MTO”) Permit for a pit/quarry with licenced area of 11.9 ha.<sup>2</sup> – –

I trust you are aware of the layout of this application with regard to the location of the surficial material and the bedrock? The surficial and bedrock material found on the property can be quite variable over a short distance and sufficient probable reserves of suitable quality to meet all demands must be protected to account for this. The applicant also wants to ensure that there are sufficient resources available to meet the long term demand in the area.

You have mentioned some of the sources in the area, but you should also be aware of the size of some additional operations off of Highway 35 north of Dorset. The 90 Ha Licence and the MTO pit are located just north of the MTO permit you refer to above. The 120 Ha quarry is still south of Dwight.

- Licence for pit and quarry – 120 Ha
- Licence for pit and quarry – 90 Ha.
- Permit for sand – 20 Ha
- MTO Permit for sand 17.5 Ha

Of the sources you have mentioned how many are open quarries? If I am not mistaken, the only one is the small quarry to the east of this application (permitted by the applicant) and it is too small and of too low a quantity to operate economically for aggregate.

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<sup>2</sup> E.g. refer to MNR data on aggregate operations in close proximity to the Permit Application: John Bacher Construction Limited, Pit Site ID 16023, 10,000t/a, licenced area of 2.96 ha; Township, Pit Site ID 10952, 20,000 t/a, licenced area of 1.64 ha; County of Haliburton, Pit Site ID 10951, 25,000t/a, licenced area of 2.12 ha; John Bacher Construction Limited, Quarry Site ID 15974, 1000 t/a, licenced area of 0.82 ha; Eric Doetsch/Henry Kurronen, Pit ID 10953, 2,000 t/a, licenced area of 0.5 ha; County of Haliburton, Pit Site ID 10955, 20,000 t/a, licenced area of 2.5 ha; B.O.R. Aggregate Company Incorporated, Pit Site ID 16667, 200 t/a, licenced area of 0.5 ha; Township of Lake of Bays, Pit Site ID 10825, 25,000 t/a, licenced area of 3.21 ha; Ministry of Transportation Northeastern Region, Pit/Quarry Site ID 401003, unlimited annual tonnage, licenced area of 11.9 ha; accessed online from MNR “Pits and Quarries Online” at <<https://www.ontario.ca/environment-and-energy/find-pits-and-quarries>>.

**HLAR response: Information on the surficial material and bedrock on site referred to in your response should be available for public review and evaluation. Kindly provide this information in the form of a report prepared by a qualified individual.**

**The larger operations referenced all have reasonably direct access to Highway 35, a major transportation route, unlike the Permit Application operation that is not on a major transportation route. Further, the referenced operations are not a mere 170 metres from residential properties and a lake.**

The annual extraction limit is now proposed to be 75,000 tonnes/year, for an unstated number of years of extraction. However, the Applicant has publicly given statements that 5,000 to 6,000 or 10,000 tonnes/year at the most is what is required for the local market and in keeping with current aggregate practice to limit the lifespan of extractive operations.

I am curious regarding your statement of limiting the lifespan of aggregate operations. Could you provide the basis for this statement based on actual permits and licences? I think it was quite clear that the applicant wanted this quarry for his son and hopefully his grandchildren. i.e. not limiting the lifespan of the operation.

**HLAR response: Ontario considers aggregate operations to be a “temporary land use”. On this basis, the lifetime of an aggregate operation should not be the equivalent of several generations. Public Crown land and the resources beneath should not be viewed as an inheritance for the operator’s sons and grandchildren. As the Applicant has stated to the media *“I want this pit to be used by my son and grandchildren. The restrictions around these proposals are getting so tough, so if I can set this up now, it just helps us in the long run.”***

**HLAR strictly asserts that Phase II of the footprint should not be permitted, as it is too proximate to the lake and residents. Further, the Applicant has admitted that the Phase II land would not be extracted for another 20-30 years. Therefore, it is respectfully submitted an application for those lands should follow closer in time to when the resource may be extracted, and comply with changes to the policy and legislative framework.**

**An aggregate approval considers the current state of the land proposed for extraction. The site and its ecological functions (both local and regional) can change over time, especially in light of the potential impacts of climate change on the health of Harvey Lake and the surrounding environment. The children and grandchildren of Harvey Lake deserve the protection of those “tough restrictions.”**

**Much of the applicant’s approach has been based on his “good reputation” as an operator. If the possibility of extraction is as remote as claimed by the Applicant, Crown land and the resources beneath it should not now be placed “on reserve” for the operator (or a successor), at the expense of the health of the local community and environment.**

The Permit Application is for extraction and processing of sand and gravel, and blasting and processing of bedrock, with a Haul Route at the entrance off McClintock Road onwards to Livingstone Road along Otter Lake.

The 10,000 tpa that was referred to at the information session was based on the probable local demand for quarried rock from this permit over the short term. The annual expected demand for sand must then be added to this figure. Excluding the small inactive quarry that John Bacher Construction has in the area, the closest quarry is on Highway 35 north of Dorset.

**HLAR response: The questions at the information session directed to the Applicant were for the overall tonnage per annum, and not only quarried rock.**

**The Applicant’s above written comment is new information to us, and means that the Applicant’s annual extraction could indeed increase from that stated at the information session, e.g. through new municipal contracts. In order to evaluate the reliability of the varying assertions that have been made, we request to be provided with:**

- **Information on current production at the existing pit (not licenced capacity);**
- **Estimate range of increases beyond the “short term”; and**
- **Sizes (average & maximum) of municipal contracts.**

75,000 tonnes per year is the proposed revised tonnage for the permit. Some have suggested that this figure should be lowered based on the expected yearly output for the permit. There are several reasons for leaving it at 75,000 tpa.

1. Although it is unknown whether a large job (most likely a Municipal contract) requiring a significant tonnage, will occur, the permit should allow for this scenario over the longer term.

**HLAR response:** Therefore, the Applicant's public assertion of little change from the current operation of the small pit does not reflect the Permit Application being considered by MNR. A significant increase in tonnage would impact local residents through noise, dust, traffic and the reasonable enjoyment of Harvey Lake and area properties. The permitted extraction amount should be based on a review of asserted local need, and not "what if" scenarios. Should local demand change, the Applicant has the option of seeking a site plan amendment with justification.

2. The smaller processing plants that the applicant currently uses to produce approximately 10,000 tons per crush, may eventually be phased out of the market. In this case, only larger plants will be available that generally have a minimum limit of 50,000 plus tonnes per crush.

**HLAR response:** The Applicant has stated that crushing may only occur every 2-3 years. A 50,000-tonne crush would be possible in order to supply inventory for several years.

Please clarify (1) if the Applicant and Permit Application propose to transfer additional material to this proposed site for crushing, and if yes, the impact on truck traffic volumes; (2) the expected volume of crushed aggregate hauled off-site for storage elsewhere and the impact on truck traffic volumes; and (3) the processing capacity and location for the proposed on-site crusher.

The above scenarios imply a substantial increase in truck traffic during the operation timeframe of the crusher. Has the Applicant considered the impacts?

3. If the applicant wanted to locate one of these larger plants **in the existing permit to reduce noise impacts to the south** he would not be able to if the tonnage was set too low. The annual tonnage approved for a permit applies when the rock leaves the permit. As an example, if the limit was only 25,000 tonnes, he would only be able to



remove 25,000 tpa from the proposed permit to the existing permit. He would not be able to move the larger amount required as a minimum for the larger plant.

**HLAR response:** See our comment above. This comment introduces uncertainty into the application as to the intensity of use of the site for both aggregate extraction and crushing, and amount of material for each activity. HLAR does not understand how inclusion of a larger plant would reduce noise impacts to the south. HLAR does not understand the references to the connection between this permit and the existing permit, or what the existing permit is (location, tonnage permitted, etc.). Again, the Applicant's Permit Application should reflect its intended and studied use and not potential future use.

All this industrial activity is proposed on public land, in a very sensitive natural environment. The proposed site contains a mineral conifer swamp and maple hardwood swamp, as well as a sparse treed bog and meadow marsh within the 120-metre adjacent lands. A Stratum 2 Deer Wintering Yard is present just outside of the adjacent lands, to the southwest of the proposed permit limit.

The proposed site will exclude these wetlands from development and will contain a 30m vegetated buffer, which is considered suitable to protect these natural habitats (see below for a further description). The sparse treed bog is located outside of the boundary limits and is approximately 120m away. Deer wintering habitat was located outside of the 120m adjacent lands (170m). The requirement according to the Natural Heritage Reference Manual to assess for impacts to significant wildlife habitat is 120m. As stated in the report, limited deer browsing was observed within the study area with limited conifer cover required for deer wintering. The entire deer yard will be protected.

**HLAR response:** The aggregate development includes stripping, extraction, blasting and crushing only 30 metres from wetlands that flow directly into Harvey Lake. Airborne particles and contaminants are a concern of resident, who are only 200 metres from the proposed quarry and whose drinking water is lake water. How has the Applicant considered and factored in potential impacts from airborne particulate matter?

The sparse treed bog is considered to be significant habitat as it is a rare ecosystem in Ecoregion 5E. The meadow marsh is also considered to be significant wildlife habitat, as it serves as a significant amphibian breeding habitat, with confirmed breeding of spotted salamanders on site.

Index 15 of the Significant Wildlife Habitat Mitigation Support Tool (SWHMIST), 2014 under Amphibian Breeding Habitat (Wetland) - there are no buffer suggestions. It also states that large subdivisions and commercial developments have the greatest potential to affect the functions of breeding ponds and wetlands when compared to aggregate and mine development. Under Aggregate and Mine development of the SWHMIST, the best mitigation is to avoid developing in the habitat. No significant breeding habitat will be developed. Water levels will not be impacted as the extraction will be above the water table.

The sparse treed bog is approximately 120m from the property boundary and will be protected.

**HLAR response: See comment directly above. This does not address Dr. Cowley's concerns regarding particulate deposition and potential impacts to natural heritage features.**

Water flows east through the conifer swamp into the unnamed stream, which flows south into Harvey Lake. Harvey Lake is the drinking water source for HLAR. HLAR residences are very close to the proposed aggregate operation, within 200 metres of the proposed Permitted Area.

**HLAR additional comment: There is no response from Pebble Beach Aggregate regarding potential contamination of the unnamed stream that flows into Harvey Lake and as Harvey Lake as the drinking water source for Harvey Lake cottages. This issue must be addressed.**

### **Request for Notice and Comments**

We request further notice regarding all Ministry decisions regarding the Permit Application and all new documentation from the Applicant. Specifically, we request to be provided with a copy of the following:

- Record of Ministry determination of Class EA category. This includes the project description, completed screening table, and supporting rationale; **This request will have to be dealt with by MNR.**
- All notices provided pursuant to the Class EA requirements;
- All Ministry and partner ministry comments (e.g. the Ministry of Natural Resources and Forestry ("MNR"), Ministry of the Environment and Climate Change ("MOEC"), etc.); and **the only Ministry comments received were from MNR and I feel it is best you receive all comments from MNR.**
- All updated and new technical reports.

**HLAR response: We are requesting these comments from MNRF as you direct.**

### **HLAR's Detailed Comments on the Permit Application**

HLAR's detailed concerns are outlined below, organized according to considerations of the Ministry per the *Aggregate Resources Act* ("ARA") and associated Standards and policies. These detailed comments inform HLAR's submissions on project categorization per the Class EA.

Per ARA clause 42(1)(a) and MNRF Policy No. A.R. 4.00.03 (the "Public Interest Policy"), HLAR respectfully submits that the issuance of the permit would be contrary to the public interest. While we understand MNRF Staff will not be in a position at the end of this comment period to formulate a recommendation on refusal or issuance of the permit, we raise the following issues of concern based on the Public Interest Policy requirements to inform the Ministry's Class EA classification.

#### *(a) Effect of the operation on the environment*

The potential effects on the environment have not been sufficiently studied and documented in order to ascertain whether the potential impacts may be mitigated. This reason alone warrants MNRF categorization of the Permit Application as a minimum Category "C" environmental assessment per the applicable Class EA.

#### Noise and Noise Impact Analysis:

HLAR supporters live in proximity to the proposed aggregate operation, with one residence within 200 metres of the proposed permit area. The proposed site is a Class 3 Area per the MOECC Environmental Noise Guideline NPC-300 ("NPC-300"). Residents describe Harvey Lake as a serene, tranquil lake, with a small nestled community along its peaceful shores, dominated by the sounds of nature, with next to no motorboat activity. The loudest residents are loons.

HLAR has been advised that the *Noise Impact Analysis, Bacher Construction Limited, McClintock Quarry/Pit*, Project 116-0419 (4 April 2017), prepared by Valcoustics Canada Ltd. (Keni Mallinen, B.A. Sc., CRM, and John Emeljanow, B. Eng., P.Eng.) (the "Noise Report") assessment and proposed shielding is insufficient. HLAR consulted two professionals with expertise in aggregate operations, including an experienced quarry operator and acoustical engineer.

The Noise Report relies on numerous flawed assumptions.

**What are these flawed assumptions?**

**HLAR response: See below. As you are aware, the noise impact analysis finds Harvey Lake residents would be at or just below the “acceptable limits”, thereby significantly changing our environment, which is presently dominated by the sounds of nature.**

*The Blast Impact Analysis, McClintock Quarry, Part Lot 11 and 12, Concession 2, MNR District of Bracebridge, County of Haliburton (27 July 2017), by Explotech Engineering Ltd. (“Blast Impact Analysis”), makes predictions based on drill performance in limestone and not gneiss, the rock on the proposed site, which is twice as hard as limestone. This is a critical oversight.*

Could you please supply actual data to back this up. i.e. that the rock on the proposed site is twice as hard as limestone and that the predictions were based solely on drill performances in limestone? Being a geologist who has been involved with drilling and blasting in many “gneissic” quarries, I can say that all gneisses are not created equal wrt to hardness. In follow up it, is easy for you to call it a gneiss and if it is, what type of gneiss is it?

**HLAR Response: The noise modeling must rely on the worst-case scenario, being when the drill first penetrates the gneiss rock. Further, the noise modeling calculations use limestone (softer rock) and not gneiss. As the Noise Report does not consider these operational conditions, it is faulty and inadequate. The issue is therefore the lack of connection between the Noise Report and the Blast Analysis. Additionally, crushing activities will be very loud. The Applicant must explain why these two operating assumptions were not part of the Noise Report.**

The noise modelling must rely on the worst-case scenario, being when the drill has not yet penetrated the harder gneiss rock while using the suitable drill. As the Noise Report does not consider these operational conditions, it is faulty and inadequate.

The drill sound is not only assumed to occur when the drill is just starting to penetrate the rock, but occurs continuously for an entire hour.

The noise impact assessment assumes two different sound levels generated by the drill when it is drilling. One for a standard drill and one for a quiet drill. These are assumed to occur continuously for a worst case hour and do not account for drill activities such as rod changes and movement when the noise generation is significantly decreased since there is no drilling occurring.

The Blast Impact Analysis recommendations, included in the site plan conditions, advise for 12-months of information gathering to develop site-specific attenuation.

Just so that it is clear, the study shall be done during the first 12 months of operation as per the Report recommendation below.

“An attenuation study shall be undertaken by an independent blasting consultant during the first 12 months of operation in order to obtain sufficient quarry data for the development of site specific attenuation relations. This study will be used to confirm the applicability of the initial guideline parameters and assist in developing future blast designs.”

Given the close proximity of the proposed operation to points of reception (residents) and hardness of the rock, the Noise Report must determine with greater precision the predicted sound level from the equipment to be used on site. We note that Noise Report Recommendation #3 acknowledges this shortcoming in the Report’s assessment. This is a critical issue given the close proximity to residences and must be resolved forthwith.

Sound data provided by equipment manufacturer has been used. Recommendation 3 further requires that the sound emission levels be confirmed using measurements on site. If they exceed what was used in the analysis, additional mitigation would be needed before the operation could proceed. Finally, Recommendation 8 requires off-site audit measurements be done to confirm the guideline limits are met. Again, if excesses are found, additional mitigation would be needed.

This is not a shortcoming. This is validation confirming that the emission levels used for equipment that are to operate on the site will not be exceeded in reality.

**HLAR response: We are duly concerned about the experimental first year. One of the residents experiences severe migraines, which furthers these concerns, with the operation very close to the noise limits and in such close proximity. Those sound receptors would be placed on our residents? Would that not impact property values? HLAR is keenly interested in understanding how we may have timely access to such emission reports, and how quickly that corrective actions would be taken. Further, has the Applicant considered undertaking testing to validate its noise assumptions?**

As the Noise Report states, the processing plant will exceed the NPC-300 limit the noise for the Class 3 area and requires shielding (unspecified in report and site plan conditions). We respectfully submit

there is nothing in the application that justifies this bending of the rules for a private developer operating on public lands.

I am not sure where it states the processing plant exceeds the NPC-300 limits. The mitigated results presented in Tables 3 and 4 show compliance with the guideline limits at all off site receptor locations.

Could you please be more specific as to what rules have been bent?

**HLAR response: Please note the Noise Report predicts the operation will meet the NPC-300 limit noise level for residents at Harvey Lake. The Applicant provides no information on the hardness of the gneiss on site in order to substantiate the assumption in the Noise Report, which is the worst-case scenario for drilling on-site, is equivalent to drilling on limestone.**

**Further, while the operation is predicted to exactly meet the NPC limit during the daytime for several receptors, this does not consider the operation will introduce a new noise source into the otherwise quiet environment, likely at a higher decibel level than existing ambient noise. This will have a negative impact on the use and enjoyment of property. There is no measurement of the ambient noise (daytime or evening) for the area.**

The end use of the extracted aggregate must also be confirmed.

I thought it was clear on the application form – crushed stone, sand and gravel and **dimensional** stone. The specifics as to what is meant by dimensional stone have not been spelled out.

**HLAR response: To be clear, the specific end-markets, geographical areas, hauling routes etc.**

The rock type on site is extracted in other quarries for use as flagstone.

I am curious as to how you can state that the rock type on site can be extracted for use as flagstone. I doubt this statement is based on sound geological practice.

However, extraction for flagstone relies on different equipment and requires more drill holes prior to blasting, impacting any modelled noise levels.

More holes do not impact the noise levels. When the drill is operating on site, it was assumed to be operating continuously. Whether it drills one hole or multiple holes during that hour makes no difference to the analysis results.

**HLAR response: We are concerned about vibration impacts – as we are so close to the proposed site.**

It is standard practice to require a Market Analysis for all quarries on private land, this case should be no different. Our clients have a sophisticated understanding of the local aggregate market and are at a complete loss as to why this operation is proposed at this location, in such proximity to residents, wetlands and a designated waterfront.

Would you be able to provide me with the data to back up the market demand for crushed bedrock in the area both now and well into the future, as well as, the comments from your clients with regard to their sophisticated understanding of the local aggregate market?

**HLAR response: Please confirm that the 3-4 dB higher sound wave was applied, through a signed and stamped report.**

**Additionally, and extraordinarily significant is that the applicant himself has stated varying reports on the market need – 5,000-6,000 to 10,000, yet the application is for 75,000. To be clear, we expect a full market analysis, for local demand, as that is how the applicant has justified the local traffic. According to the *Aggregate Resources Act*, it is the applicant’s duty to satisfy HLAR’s objections – thereby the applicant should outline the type of rock, drill and the noise modelling which correlates. The Applicant provides no data to inform its application – it is not for local residents to fill this gap in knowledge or rely on irreconcilable statements by the Applicant at various times.**

The Noise Report must also account for the “ground effect” on the hard surface of the Canadian Shield, which creates a sound wave 3-4 dB higher than other typical aggregate surfaces. Sound calculations must account for this condition. Therefore, additional information is required to determine whether the Noise Report is based on worst case conditions, as it appears it is not.

To be conservative, hard sound reflective ground was assumed for the entire extraction area for the entire life of the quarry.

Contrary to Noise Report Recommendation #6, the Applicant proposes (in modifications presented July 29, 2017), to conduct drilling when

there are no leaves on the trees. This is unacceptable to Harvey Lake recreational use landowners who use their residences year-round, thereby leaving a short drilling period in the month of May that would even slightly allow them to reasonably enjoy their properties. This condition must therefore be modelled in the Noise Report.

I do not recall any statement about drilling when there are no leaves on the trees. This what was presented - **There will be no drilling/blasting on the site between the third weekend in June until after the Labor Day weekend in September of each year – I am not sure how this leads to your statement of a short drilling period in May.**

Based on this, they could drill for about a month in the spring (late May to third weekend in June) and from after labour day until after thanksgiving.

**HLAR response: The reference for HLAR’s statement there will be no drilling when leaves are absent from trees is the Recommendations in Valcoustics Noise Impact Report:**

*“To maximize the acoustical screening provided by dense woods and minimize the sound exposures at the receptors, it is recommended that drilling not be done when there are no leaves on the trees.”*

**Therefore, drilling in September/October is directly contrary to the Applicant’s noise consultant’s recommendation. Operating contrary to this recommendation will likely create greater noise, particularly for Harvey Lake residents, as well as decrease the supposed tree screening used for dust mitigation. This is evidence of an inherent lack of overall connectivity and management of the proposal between the reports and proposed site plan notes.**

HLAR is concerned with the lack of detail provided for the berm required for noise mitigation. Given the insufficient quantity of berm construction material on site, and the proposed annual extraction rate (10,000 t/a), - **depending on the material used for berm construction, there is sufficient material on the site** - the berm cost may be prohibitive to the operator as material must be imported on-site. To the best of our knowledge, berm dimensions have not been determined and the berm would be located on higher ground than the HLAR cottages, potentially creating a negative visual impact, which has yet to be examined. Further, the Applicant has stated it does not intend to



construct this sound barrier. This is confirmed in proposed Site Plan Condition 1.31.

If it was decided to use accumulated waste rock and other onsite material to construct the berm, there would probably be enough.

With the quiet drill, berm construction is not required until quite late in the life of the quarry i.e. beyond the pink line on Figure 5. The berm locations and heights are shown schematically in the figures in the noise report.

The notes have been modified to include a berm/sound barrier.

**HLAR response: HLAR's concern regarding the berm's visual impacts has not been addressed by the above statements. Further, any revisions to site plan notes must require the operation of the quiet drill and take into account above comments regarding the Noise Report assumptions.**

The berm is not included on the site plan drawings, although the Phase 2 extraction area is included.

The site plan has been modified to address the construction of a sound barrier since we submitted it to MNRF although at this time we are not sure what the sound barrier will be constructed of. Since we do not anticipate having to construct this sound barrier for 30-40 years and with changes in technology, we felt it would be best to clarify the actual design with a site plan amendment at the time, realizing that MNRF would have to approve this for the current plan.

Of additional concern is the lack of inclusion of precise operating procedures in the proposed site plan to control noise (e.g. berm location and detail, equipment models with noise limits for drill, processing plant crusher, periods of no blasting/drilling as proposed, and potential 7 a.m. to 7 p.m. operations as stated at the July 29, 2017 public meeting). The Site Plan does not require the use of alternatives to back up beepers, which are commonly used (e.g. hissing noise in place of a beep). The Province should take great care not to permit nuisance activities on public land, particularly so close to sensitive receptors such as cottagers trying to enjoy nature with their children and grandchildren.

All provided in the noise report. In addition, the report requires that sound emissions be checked prior to equipment operating on site to ensure consistency with the noise study. Finally, report also recommends noise audit to ensure guideline compliance.

See Recommendation 5 in the noise study.

The site plan has been modified to reflect the new hours of operation. The actual equipment models with noise limits are not known at this time as the work is usually contracted out – a common practice in Northern Ontario for small operations.

**HLAR response: There is no protection to prevent contracting the least expensive equipment (a common practice in Northern Ontario for small operations). You are proposing a long term (future generations) operation, which makes it impossible to rely on the current reputation of the operator and exposes Harvey Lake cottagers to multiple future unknowns. Does the Noise Report consider all possible equipment models?**

Sound emission monitoring and auditing must be required for the site to confirm whether equipment is being operated to meet NPC-300, with reporting to MNR. This monitoring, auditing and reporting should occur every time new equipment is brought and used on site.

See Recommendations 3, 8 and 9 in the noise study. These are all required.

The recommendations dealing with your comments have already been added to the site plan.

**HLAR Response: Residents request notice when new equipment is brought and used on site.**

To confirm compliance with NPC-300, an aggregate permit should not be issued or considered without a better assessment of actual on-site blasting and noise conditions, and modelling of proposed noise mitigation measures. The required mitigation must then be specified in the Site Plan Conditions.

I am not sure what you mean by actual on site blasting and noise conditions. Are you suggesting that the applicant blast and crush before the issuance of a permit is considered?

We feel satisfied that both the Noise Impact Analysis and the Blast Impact Analysis have been prepared by well qualified consultants with significant experience and that the mitigation proposed will ensure that Provincial Standards are met.

According to Provincial Standards of Ontario – Category 9, Pit Above Water and Category 11, Quarry Above Water - Noise is to be mitigated at source with

appropriate noise attenuation devices in addition to appropriate site design when a sensitive receptor is within 2000 metres of the permitted boundary. A sensitive receptor includes residences and would include residences at Harvey Lake.

**HLAR response: To be clear, we are requesting testing to ensure the Noise Report assumptions and results are based on condition as close as possible to those on the proposed site. We have requested MNRF send the Noise Report for peer review to the MOECC.**

We also request consideration of the impact of noise on wildlife. For example, Dr. Cowling raises the potential impact of blasting on natural biological processes on the species at risk present on and adjacent to the site, e.g. Blanding's Turtle.

MNRF will have to comment if they feel that this is a concern.

Dust and Dust Impact:

The Applicant may be putting public health and natural heritage features and functions at risk. No technical report on dust and air quality impact was required. Therefore, the possible impacts are unknown. We request an emission dispersion summary and modelling report for the fugitive sources of dust from haul roads, stockpiles, proposed recycling operation, and local sources due to drilling, blasting and crushing. This is commonly required for aggregate operations.

Would you be able to provide examples from quarry permits and licences issued in Northern Ontario.

The applicant is well aware of the concerns regarding the production of dust from the operation and will take whatever actions are necessary to comply with the Environmental Protection Act.

Dust control will be adequately addressed to insure there is no off property impacts that could cause an adverse effect as defined in the Environmental Protection Act. The control of dust from a processing plant will be addressed if necessary. If required, the licensee will use various means to control the dust on the internal roads (water and/or calcium), from the drilling (dust collectors) and from the processing equipment (water). Significant tree screening will prove a major asset in dust control. Weather conditions may also play a role in when the work is carried out.

The following picture was taken in 2010 during a crushing operation in a similar quarry operation as proposed by the applicant. There are no

ominous clouds of dust and in this particular operation, there were no dust suppressants being used, although they were available if required.



**HLAR response:** Given the proximity of the proposed operation to residents and sensitive natural heritage features, we request an emission dispersion summary and modelling report for the fugitive sources of dust from haul roads, stockpiles, proposed recycling operation, and local sources due to drilling, blasting and crushing.

The Applicant would rely on tree foliage as a dust screening, but due to extreme noise impacts must do work in the fall, when there are fewer leaves on the trees. HLAR is extremely concerned about the health and well-being of residents, particularly children from air-borne contaminants from the operation, due in large part to the prevailing winds, proximity to properties, and lack of emission dispersion summary.

HLAR does not have access to a database of reports submitted for aggregate applications in Northern Ontario. Typically, northern aggregate operations appear to be much further removed from sensitive receptors than in Southern Ontario, where such emission reports are common. Given the proximity of the Permit Application to HLAR residences, we request an ESDM report to ensure no adverse impacts.

I trust you are aware that 3.4 of the Aggregate Resources of Ontario Provincial Standards states that: Processing equipment will be equipped with dust suppressing or collection devices where the equipment creates dust and is being operated within **500 metres** of a sensitive receptor. i.e. the applicant could legally crush in any area that is over 500 m. from the closest receptor and not be required to deal with any dust. This said he will address any dust issue that arises.

Prescribed Condition 3.2 of the Aggregate Resources of Ontario Provincial Standards states: Dust will be mitigated on site.

**HLAR response: This statement does not address HLAR's objection, and is very disconcerting for HLAR. HLAR is concerned of impacts to use and enjoyment of property, the natural environment, and reasonable enjoyment of the area (e.g. walks along Harvey Lake Road).**

There are properties within hundreds of metres of the proposed operation that may be impacted. Such scientific assessment is typically required for aggregate operations and should be undertaken here. While primary and secondary dust collectors are proposed Site Plan Conditions, their efficacy is not addressed. Site Plan Condition 1.21 states the stockpiles will not be vegetated.

We note that the Ontario Municipal Board ("OMB") has denied aggregate applications for lack of consideration of worst case air quality impacts relying on the best data available to model possible impacts to air quality:

With regard to dust the Board finds possible discharges of fine particulate matter and crystalline silica in excess of MOE guidance documents (Ambient Air Quality Criteria) that will not be cured under the Capital Best Management Practices Plan. That Plan suggests awaiting for visual dust clouds to appear the size of one third of a commercial vehicle before watering takes place (no water taking at this site is proposed).

You are correct, there is no water taking proposed at this site at present as there is minimal water available on the site.

**HLAR Response: Please confirm there will not be any water taking from Harvey Lake or nearby streams in any**

circumstances. As well, no answers have been received regarding the above crystalline silica.

**HLAR restates: While primary and secondary dust collectors are proposed Site Plan mitigation measures, their efficacy is not addressed. Site Plan Condition 1.21 states the stockpiles will not be vegetated.**

**We note that the Ontario Municipal Board (“OMB”) has denied aggregate applications for lack of consideration of worst case air quality impacts relying on the best data available to model possible impacts to air quality:**

**With regard to dust the Board finds possible discharges of fine particulate matter and crystalline silica in excess of MOE guidance documents (Ambient Air Quality Criteria) that will not be cured under the Capital Best Management Practices Plan. That Plan suggests awaiting for visual dust clouds to appear the size of one third of a commercial vehicle before watering takes place.**

**Here, no water taking is proposed at the site.**

There is questionable coordination with admitted subcontracting and with the exemption condition sought to permit night loading and shipping to meet urgent provincial contracts and specifications.<sup>3</sup>

**I'm sorry but I am not quite sure what you mean by questionable coordination...**

**HLAR response: This comment addresses the apparent lack of coordination between the Noise Report, Blast Impact Analysis and proposed site plan notes. HLAR is opposed to night loading and night shipping, no matter the circumstances.**

A Dust Impact Analysis will also provide necessary information to assess potential impacts of dust on natural heritage features and functions on and adjacent to the site. Dr. Cowling recommends consideration of the impacts of dust on known and potential amphibian breeding habitat in the study area (wetland and woodland), turtle habitat and life cycle, and on water quality, turbidity, physical

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<sup>3</sup> *Capital Paving v. Wellington (County)*, [2010] O.M.B.D. No. 9, at para. 36.

accumulation, water-level decline, etc. for all on-site and adjacent wetlands in the potentially impacted area. For example, the dust release rates may have a negative impact on smaller wetlands with lower (or no) flushing rates, with deposition of quarry/pit sediment disrupting species breeding and nesting process, and the wetland feature itself.

There are no plans to deposit quarry/pit sediment in any of the wetlands.

**HLAR response: This is not speaking to “planned” deposition of dust or sediment to the adjacent wetlands. This is speaking to inadvertent airborne deposition, or run-off pollution.**

Dr. Cowling recommends the impact analysis of dust on natural heritage features and functions include literature review on impacts of dust and turbid water to amphibian breeding, bog and other wetland types, and specific ecological functions identified for the site and adjacent lands. HLAR also notes for the Applicant that Dr. Cowling is willing to provide her assistance in the decision-making processes for this application, through the supervision of a student researching the impact of dust on small wetlands.

Drainage:

Drinking water should never be put at risk. The site’s natural water drainage occurs mainly towards the meadow marsh and unnamed tributary to Harvey Lake. However, no drainage plan is included but for vague consideration in Site Plan Condition 1.19. It is unclear, given the underlying rock formation, whether the water can percolate through the rock. Further, there is no assurance that pumped water will be directed to an area without negatively impacting on surrounding water bodies, if these areas are not selected by scientific study and assessment.

If any water is pumped it will be minimal. The quarry will be designed so that water will not accumulate in significant amounts that might require pumping. Pumping a minor amount of water to the floor of the pit or other similar location will ensure that the water does not impact surrounding water bodies.

**HLAR response: Drinking water should never be put at risk. The site’s natural water drainage occurs mainly towards the meadow marsh and unnamed tributary to Harvey Lake. However, no drainage plan is included but for vague consideration in Site Plan Condition 1.19.**

**The above comment does not address the concern for potential transport of contaminants from pumped water to groundwater that discharges in Harvey Lake. What is the expected amount of “minimal” pumping?**

Blasting on the site will use ammonium nitrate fuel oil (“ANFO”) to break the rock<sup>4</sup>. There is no consideration of the environmental impact of using this fuel on a site with no stormwater management plan or device that is in close proximity to a rare ecosystem, several wetlands, and Harvey Lake. Harvey Lake is the drinking water source for HLAR. ANFO alternatives are available and must be required in the Site Plan Conditions, if the permit is approved.

No decision has been made on the material used for blasting.

**HLAR response: With no commitment to abstain from the use of ANFO, this remains a significant concern for HLAR.**

In summary, pending further review by our client, their experts and the Ministry, there is little confidence in the proposal and its protection scheme for drinking water. Numerous children and seniors populate the lake for long stretches during the year; these populations should not be placed at risk.

The operation will be an above the water table extraction, and no continual pumping of groundwater is being proposed, nor will be required. Drainage from the undeveloped portions of the property will continue to discharge to the environment as they currently do. If storm water and spring melt water accumulates within the operating area it will be managed on site, pending testing and eventual discharge to the natural environment

**HLAR response: HLAR is requesting a comprehensive storm water management plan and water treatment plan, as the Applicant recognizes the potential discharge of contaminants off-site through water transport. This concern could be better addressed if the MNRF elevates the Class EA category per our request.**

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<sup>4</sup> Explotech Engineering Ltd., *Blast Impact Analysis, McClintock Quarry, Part Lot 11 and 12, Concession 2, MNR District of Bracebridge, County of Halliburton* (27 July 2017) [“Blast Impact Report”] at p. 8; and comments by Mr. David Villard at the July 29, 2017 public meeting.



Natural Heritage:

Harvey Lake and the subject site contains a diverse range of habitats and species. Crown land, managed by the Province on behalf of the public, containing these high natural heritage values should never be compromised.

HLAR notes the following information gaps in the *Natural Environment Report Level 1 & 2, Category 9 and Category 11 Aggregate Permit, Part of Lot 11, Concession 2, McClintock Township* (November 2016), by Fri Ecology Services (April McCrum) (the “Environmental Report”).

**HLAR additional comment: The Environmental Report is based on an erroneous premise, that the area of extraction will be limited to the northeastern limits of the permit boundary (see page 3). Please advise whether this will be corrected, as the operational plans clearly show extraction to the southernmost boundary, within 200 metres of residences.**

The Environmental Report is based on an erroneous premise, that the area of extraction will be limited to the northeastern limits of the permit boundary (see page 3). Please advise whether this will be corrected, as the operational plans clearly show extraction to the southernmost boundary, within 200 metres of residences.

**This was a typo in the report. It should say the extension of the existing sand pit will be limited to the northeastern limits of the permit boundary and that the aggregate quarry will eventually extend to the southern limits of the permit boundary.**

**HLAR response: We find this to be very unsatisfactory and a significant concern. Please explain what the “typo” is and how this typo found its way into the report. These are two dramatically different statements. HLAR’s concern with the Environmental Report is with the following statement:**

- **First statement in Environmental Report:** *“this is based on the understanding that the area of extraction will be limited to the northeastern limits of the permit boundary.”*
- **Second statement by Pebble Beach Aggregate:** *“the extension of the existing sand pit will be limited to the northeastern limits of the permit boundary and that the aggregate quarry will eventually extend to the southern limits of the permit boundary.”*

- **Redlined statement:** *the extension of the existing sand pit will be limited to the northeastern limits of the permit boundary and that the aggregate quarry will eventually extend to the southern limits of the permit boundary.”*

**A revised Natural Environment Report is requested to clarify the author’s scope of work, and whether the authors considered the proposed extraction only hundreds of metres from the lake and cottages, and that the Environmental Report includes all of the potential impacts when so close to residents and the lake.**

The Environmental Report predates some and does not refer to the other technical reports prepared in support of the Permit Application. For example, the Environmental Report does not address the potential impact of the use of ANFO on-site for blasting, which may lead to contamination of groundwater and/or surface water.

**As described under the MNRF Aggregate Permit Applications Natural Environment Report Standards, the purpose of the “Natural Environment Report” determines whether the following features exist on site:**

- a) significant wetlands
- b) significant habitat of endangered and threatened species
- c) significant Areas of Natural and Scientific Interest (ANSI’s)
- d) significant woodlands (south and east of the Canadian Shield)
- e) significant valleylands (south and east of the Canadian Shield)
- f) significant wildlife habitat; and
- g) fish habitat

**and to provide mitigation and remedial measures as it relates to fish habitat. No blasting will occur within 30m of any wetlands or watercourses.**

**HLAR response: The Environmental Report should be comprehensive and is required to address potential impacts to natural heritage features and functions, which it does not. This reinforces the need to elevate the Permit Application to a higher Class EA category.**

The Environmental Report does not address any possible impact on the change in surface water flow for the final elevation, in particular to the tributary to the south. Recommendations and conclusions on the possibilities for progressive rehabilitation are absent. The risks and impacts of flyrock, dust and blasting on species at risk and the environment are not considered. The 10-metre high berm proposal is not

considered in the Environmental Report, which may have impacts on local drainage.

As stated above, the “Natural Environment Report” does not address surface water and/or groundwater.

As stated in the requirements under the Aggregate Permit Applications: Natural Environment Report Standards, A Natural Environment Level 1 report determines whether one or more of the following features are identified which includes significant wetlands, significant habitat for endangered and threatened species, significant areas of natural and scientific interest (ANSIs), significant woodlands, significant valleylands, significant wildlife habitat; and fish habitat. If any of these features are identified, then a Natural Environment Level 2 report is required to determine negative impacts on the natural features and ecological functions. For the purposes of this project a combined Natural Environment Level 1 and 2 Report was prepared.

There is no requirement to make recommendations and conclusions on progressive rehabilitation in the Natural Environment Report. Progressive rehabilitation is required under the Aggregate Resources Act and it is the responsibility of the permittee.

According to the prescribed conditions under the provincial standards of Ontario for Aggregate permits on crown land – Category 9 and Category 11 “dust will be mitigated on site if a sensitive receptor is within 2000 metres of the permitted boundary. Water or another provincially approved dust suppressant will be applied to internal haul roads and processing areas as often as required to mitigate dust, if a sensitive receptor is within 500 metres of the site.” In addition “Processing equipment will be equipped with dust suppressing or collection devices, where the equipment creates dust and is being operated within 500 metres of a sensitive receptor.” A sensitive receptor is defined as “residences or facilities where people sleep”

Blasting mats will be used as required.

If and when the sound barrier is constructed an evaluation study will be completed that will evaluate any impacts to drainage.

**HLAR response: See comment, directly above. The Environmental Report is to consider and provide recommendations regarding potential impacts to natural heritage features and functions. The details and timeframe for progressive rehabilitation features will have impact on natural heritage features and functions, and should be considered at**

**this time. The lack of protective measures for the southern portion of the permit plan, as well as lack of groundwater plan is of significant concern. Terms of Reference for a higher category Class EA could better address these concerns.**

The Environmental Report does not describe survey methods used.

Survey methods were described throughout the Natural Environment Report.

*Ecological Land Classification – Pg. 5 “The ecosites (soil type and vegetation communities) were assessed using the Ontario Ministry of Natural Resources (OMNR) Ecosites of Ontario (April 2009 Operational draft).”*

*Blanding’s turtle – Draft MNRF Blanding’s Turtle Survey Protocol – pg. 19*

*Barn/Bank Swallows and Chimney Swifts – based on habitat present, observational surveys – pages 12 and 13*

*Eastern Hognose Snake – based on habitat present, observational surveys - Pg. 14*

*Eastern Whip-poor-will – pg. 14 “completed by using the song meter auditory survey method according to the MNRF Whip-poor-will and Common Nighthawk Survey Protocol (2015)”*

*Bats – pg. 15 “The Ministry of Natural Resources & Forestry’s recent Species at Risk (SAR) Technical Note (2015)<sup>5</sup>”*

*Pg. 16 - “The Wildlife Acoustics passive acoustic recorder was deployed for 9 consecutive nights; from May 24<sup>th</sup> through June 1<sup>st</sup>. The recorder was set to triggered recording from sunset to sunrise, the internal clock set with the GPS accessory to ensure absolute locational accuracy. The minimum trigger frequency (14kHz) was chosen to include the full echolocation range of the eight-species found in Ontario. The recordings were analyzed with Wildlife Acoustics Kaleidoscope Pro software and verified by an experienced biologist.*

*Significant Wildlife Habitat – pg. 16: The Significant Wildlife Habitat Technical Guide (SWHTG) (MNR 2000)<sup>6</sup>, the Significant Wildlife Habitat Ecoregion 5E Criterion Schedule (SWH Ecoregion 5E Criterion)<sup>7</sup> and the process outlined in the Ministry of Natural Resources Natural Heritage Reference Manual (2010) (NHRM)<sup>8</sup> were used to guide field investigations related to significant wildlife habitat.*

#### *i. Wetlands*

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<sup>16</sup> Technical Note, Species at Risk (SAR) Bats, Little brown myotis and Northern myotis. Regional Operations Division, June 2015.

<sup>6</sup> OMNR. 2000. Significant wildlife habitat technical guide. 151p.

<sup>7</sup> OMNR. 2012. Significant wildlife habitat Ecoregion 5E Criterion Schedule. 46p.

<sup>8</sup> Ontario Ministry of Natural Resources. March 2010. Natural Heritage Reference Manual for Natural Heritage Policies of the Provincial Policy Statement, 2005. Second edition. Toronto: Queen’s Printer for Ontario. 248pp.

The Environmental Report states “no impacts” to individual wetlands are expected, given the proposed 30-metre buffer. The source of the proposed uniform buffer for the various wetland types and sizes is not substantiated with reference to scientific principles, Ministry policy or scientific literature.

The Blanding’s turtle is a legally protected species, which has the highest level of protection in regards to the wildlife present. Therefore a 30 m buffer was implemented, which is stated in the MNRF Blanding’s turtle general habitat description that a 30m buffer is acceptable to protect this species.

Currently in the Planning Act there are no prescribed buffers or minimum setbacks for wetlands. However, the Greenbelt Act, Oak Ridges Moraine Conservation Authority Act and Lake Simcoe Protection Act require a 30 m buffer minimum for all wetlands. By having a 30m buffer on wetlands we are being consistent with other related legislation.

When referencing the City of London Guideline Document, (2004) for the Determination of Ecological Buffers and Development Setbacks, 30m was calculated as the buffer required in this case.

According to Castelle, et al (1994), based on existing literature, buffers consisting of 15 to 30 m are necessary to protect wetlands.

The District of Muskoka, Planning and Economic Development (2003) document on Shoreline Vegetative Buffers states that a 30m buffer is recommended and provides benefits including shading of the stream, maintenance of large woody debris, sediment removal, removal of nutrients, bank erosion control and that all aquatic invertebrates, salmonid fish, reptiles and amphibians all require a 30m buffer strip.

The buffer size does not consider the potential impacts of aggregate operations in close proximity to wetlands on wetland features and functions (e.g. dust impact (see above)). Further, wetland functions and the connections between the various wetlands within the permitted area and adjacent lands, and local area, are not discussed. For example, does wildlife use the proposed site for travel?

Blanding’s turtle Category 3 habitat is the area that Blanding’s turtles use and depend on for movement corridors between wetlands. It is expected that the most likely area they will use are the wetland fingers identified in Figures 2 and 3 (Maple Hardwood Swamp and Mineral Intermediate Conifer Swamp) to get to

breeding, nesting and hibernation areas. Through discussions with MNRF additional mitigation measures are being proposed.

**HLAR response: Please provide the details on the additional mitigation measures. The recommendation from MNRF indicates that the proposed mitigation measures are insufficient.**

HLAR would like to know if the MNRF conducted a site visit, and if so, the details of the site visit activities, e.g. whether wetland boundaries were surveyed and marked, etc.

This would not relate to FRI. FRI is not responsible for discussions with the MNRF regarding site visits. FRI is responsible for completing the field work and writing the Natural Environment Report.

You would have to check with MNRF as to whether they visited the site.

**MNRF is copied on the correspondence. We also sent MNRF separate correspondence identifying the information requests from your response.**

Dr. Cowling advises the Environmental Report and proposed mitigation measures must be revisited to consider the potential specific impacts of aggregate operations on this feature (e.g. blasting, traffic, dust, vibration, deposition of particulate in wetlands, etc.).

Blasting – blasting mats will be used as required

Traffic – As stated in the report “Any staff operating in the quarry, should be familiar with any of the species at risk they may encounter”

Dust will be mitigated as described above.

Vibration - According to the prescribed conditions under the provincial standards of Ontario for Aggregate permits on crown land – Category 11: “the permittee will monitor all blasts for ground vibration and blast overpressure and will operate to ensure compliance with current provincial guidelines, if a receptor is within 500m of the permitted boundary.”

Deposition of particulate - Blasting will occur above the water table and a 30m vegetated buffer will be implemented. Where required erosion and sediment control measures will be in place.

**HLAR response: These measures appear to be the bare minimum requirements, and are not all based on a professional report reviewing potential impacts (e.g. dust).**

*ii. Turtles*

The Environmental Report confirmed the proposed site and adjacent lands serve as potential wintering area for snapping turtle, and habitat of threatened species (Blanding's turtle). Dr. Cowling recommends the Environmental Report be revised to include a literature review of potential impacts of dust, turbidity, and aggregate operations on turtle habitat, as well as information on the life history of the turtle species, in order to better assess the potential impacts and adequacy of 30-metre buffer zones, in particular for nesting and basking areas of the Blanding's Turtle. For example, there are studies on Blanding's Turtles in nearby Algonquin Provincial Park and Bancroft, documenting the species' movement between wetlands and other aquatic areas<sup>9</sup>.

The sparse treed bog was considered the only suitable hibernation wetland within the 120m adjacent lands. The hibernation area is the most vulnerable area to be impacted and is approximately 120m from the boundary limits. According to the MNRF general habitat description 30m is required for the protection of nesting and hibernation sites for Blanding's turtles.

It is expected that the 30m vegetated buffer will eliminate dust from entering any wetlands. Dust will also be mitigated on site as stated previously. Turbidity impacts aren't expected since minimal, if any, dewatering is expected to occur as work will be taking place above the groundwater table and erosion and sediment control measures will be in place where required. Blasting noise will also be mitigated as stated previously.

A 30m buffer is described in the MNRF General Habitat Description as mentioned above for Blanding's turtles. Additional reasoning behind the 30m vegetated buffer is discussed above.

Correspondence is occurring with MNRF about additional mitigation to allow safe movement of Blanding's turtles at potential travel corridors. Information on the life history of the Blanding's turtle is included in the report.

**HLAR response: HLAR requests the opportunity to review the revisions to the Environmental Report and recommendations, given the above discussions underway regarding impacts.**

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<sup>9</sup> MNRF, *Blanding's Turtle General Habitat Description*, accessed online at <https://www.ontario.ca/page/blandings-turtle-general-habitat-description>.

The Environmental Report does not consider use of the permitted site for travel by the threatened Blanding's Turtle, or Snapping Turtle. HLAR is concerned there are additional potential impacts on the confirmed turtle species that have been overlooked in the Report.

Category 3 habitat has been identified to include travel corridors for the Blanding's turtle, which could also be used by the snapping turtle. Correspondence is currently occurring with the MNRF to provide appropriate mitigation measures to include wetland travel corridors.

Additional mitigation measures for the turtles may be required after a more thorough consideration of these species and their habitat needs. Dr. Cowling advises the Environmental Report and proposed mitigation measures must be revisited to consider the potential specific impacts of aggregate operations on these species (e.g. blasting, traffic, dust, vibration, deposition of particulate in wetlands, etc.).

Additional mitigation measures are being considered for the movement of Blanding's turtle and snapping turtle. Correspondence is taking place with MNRF.

Blasting – blasting mats will be used as required

Traffic – as stated in the report “Any staff should be familiar with any of the species at risk they may encounter and be knowledgeable about their responsibilities under the Endangered Species Act and any required actions.”

Dust – will be mitigated as stated above

Vibration – will be mitigated as stated above

Deposition of particles – will be mitigated as stated above

### *iii. Amphibian Breeding Habitat*

The Environmental Report lists known and potential amphibian breeding habitat (meadow marsh and maple hardwood wetland, respectively). Dr. Cowling advises that the Environmental Report and proposed mitigation measures must be revisited to consider the potential specific impacts of aggregate operations on this feature (e.g. blasting, traffic, dust, vibration, deposition of particulate in wetlands, etc.).

Amphibian breeding was not identified in the maple hardwood swamp. As stated previously, a 30m buffer is sufficient in protecting wetlands including amphibian habitats. The amphibian breeding habitat at the meadow marsh was located greater than 30m from the permit boundary, nearby the existing sand pit



where no blasting will occur. The other amphibian breeding habitat at the sparse treed bog was located 340m away from the permit boundary.

Blasting, traffic, dust, vibration and deposition of particulate in wetlands – will be mitigated as stated previously.

**HLAR Response: The proposed dust mitigation was not addressed in the Natural Environment Report, nor is it based on an ESDM. No reference is provided to support the Applicant’s statement that amphibian breeding habitat will not be impacted. An elevated category of Class EA would provide a stronger level of confidence and review of the proposed mitigation.**

*(b) Effect of the operation on nearby communities*

MNRF Policy 4.00.03 notes many of these concerns may be mitigated through prescribed conditions; however, the conditions must be specific to the proposed operation and surrounding site conditions.

If I am not mistaken, the Prescribed Conditions (3.0 of Provincial Standards) cannot be modified but conditions can be addressed via other means.

Visual

HLAR requests a Visual Impact Assessment be undertaken to determine the potential impact on the community of the proposed noise mitigation berm.

Safety Concerns

Public safety is not adequately safeguarded to date. Strong safety concerns are identified even by the Applicant, who indicates as a Site Plan Condition that “flyrock from the face will be away from structures as much as possible”. Accordingly, operations have been designed to follow a general North to South retreat.<sup>10</sup> Our client has great concerns that once the Applicant reaches Phase II, the residents of Harvey Lake will be in direct danger from fugitive fly rock.

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<sup>10</sup> Explotech Engineering Ltd., *Blast Impact Analysis, McClintock Quarry, Part Lot 11 and 12, Concession 2, MNR District of Bracebridge, County of Halliburton* (27 July 2017) [“Blast Impact Report”] at p. 15.

The applicant will adhere to the Environmental Protection act as it pertains to fly rock. Fly rock will not leave the site.

**HLAR response: Visual Impact Assessment has not been addressed. HLAR often walk along Harvey Lake Road and have been accustomed to doing so for over 60 years. As well, three cottages could potentially suffer the loss of pristine wilderness views. This is a significant concern.**

**HLAR's concern with fly rock stems from comments by the Applicant. At the public meeting, the Pebble Beach Aggregate representative advised that fly rock has left quarry sites and that the site notes only stated "fly rock will be kept from structure as much as possible." What has given the confidence to change this statement, given the proximity of the proposed operation to residences and the road?**

Noise

Noise impact has not been appropriately considered, discussed above in "(a), Noise and Impact Analysis".

Noise impact assessed in accordance with MOE requirements. To ensure reliability of the assessment, sound measurements of equipment to be used on site and off site acoustical audit are also required.

**HLAR response: Please see HLAR's comments further above in this document pertaining to noise.**

(c) *Municipal comments*

HLAR requests the Applicant's comments and proposal address the Township's concerns, as identified in the Township Council Resolution dated August 7, 2017, and the same for any comments from the County of Haliburton.

As I indicated at the Information Session, the MNRF CLUPA (Crown Land Use Policy Atlas) states that aggregate extraction is a permitted use in this area.

In the Township's Official Plan, Section 5.5.5. mineral aggregate extraction and associated uses are permitted uses within the areas designated "Mineral Aggregate" on Schedule "A". This designation identifies areas where mineral aggregate extraction is presently carried out and includes known public or private pits or quarries where extraction or harvesting has occurred in the last ten (10) years. The

existing permit is identified on Schedule `A`. `Schedule “B” identifies areas where mineral aggregate deposits may exist and have the potential to supply aggregate demand in the future. There is a good degree of overlap between the area outlined on Schedule `B` and the proposed area for the Permit.

It is my understanding that MNRF will meet with the Township to discuss the Resolution passed by council.

There were no comments from the County.

**HLAR response: Please see HLAR’s comments further above in this document pertaining to 5.5.8 of the Official Town Plan. Why has the proponent not commented on this policy? HLAR residents would have purchased their properties with full confidence in Policy 5.5.8. To be clear, this is a new quarry, and as your revised statement from the environmental report the “sand pit” of the current site is not part of the proposed new operation.**

(d) *Suitability of progressive and final rehabilitation plans*

The Applicant provides no description of its proposal for progressive and final rehabilitation. HLAR requests evidence that the site can be restored to its former use and condition, per MNRF policy. This is not addressed in the Environmental Report. Site Plan Conditions 1.34-1.35 are extremely vague. HLAR requests details on the proposed rehabilitation plans, and estimated timeframe for such activities.

If required by MNRF, the site plan will be updated to reflect any concerns that they may have.

**HLAR response: This suggests that the proponent is only willing to do what they are compelled by the MNRF to do – not what is best for the residents in close proximity and the local environment in general. Again, the stated wish of the applicant that the site is secured for future generations raises substantial risk that a future operator will not be attuned to local concerns, only bare minimum generic standards.**

(e) *Possible effects on ground and surface water resources.*

The Permit Application is for an area adjacent to several wetland types, streams, and Harvey Lake, which is the drinking water source for

nearby residents. Natural on-site drainage is mainly towards Harvey Lake, with some flow to the southwest of the site.

*The Groundwater Summary Statement, Bacher Construction Pit and Quarry, Township of Algonquin Highlands (Former McClintock TWP.), Haliburton County, Ontario (24 October 2016), by Waters Environmental Geoscience Ltd. (Peter A. Richards, M.Sc., P.Eng.), (the “Hydrogeological Summary Statement”)* does not address impacts to surface water, and recommends additional study for proposed pit/quarry elevations near surface water features.

The groundwater summary statement addresses the position of the water table and identifies the maximum extraction depth permitted in accordance with MNRF Policies for extractions above the water table. The report did not recommend additional study relating to surface water features; this is an untrue statement. What the report did caution is that in the immediate vicinity of a small creek tributary the proposed pit base elevation may require adjustment in order to maintain the required freeboard above the water table

**HLAR response: This is an area of great concern. The area has had significant fluctuations in water levels, and we expect this pattern to continue into the future, due to climate change e.g. increased intensity of spring run-offs. Please describe the operational procedures for such monitoring and adjustments.**

HLAR are not confident that the Hydrogeological Summary Statement demonstrates no negative impacts, as it is only a summary report that does not take into consideration potential fractures from blasting, which would have an undeniable impact, as the groundwater flows naturally to Harvey Lake.

This statement is incorrect. The groundwater flow system that was interpreted for the study area was based on assumed fracture flow in the bedrock system. It is called a Summary Report as defined in MNRF Policy A.R. 4.01.04

As acknowledged by MNRF in applicable Policy 4.01.04, assessing hydrogeology and groundwater flow in this type of rock formation is very difficult. The Hydrogeological Summary Statement does not include the test pit and borehole data, making peer review by the MNRF (or MOECC) and others difficult.

The Summary Statement presents an interpretation of the water table profile based on several data sources, as is clearly indicated in the report. It is not a detailed Hydrogeological Assessment, as is required for pit and quarry excavations that are intended to go below the water table, and is written to the standard required by MNRF in Policy A.R. 4.01.04.

**HLAR response: With the close proximity to Harvey Lake and wetland features, HLAR is requesting a detailed Hydrogeological Assessment.**

The impact on groundwater is also difficult to predict, as anticipated rock fractures from blasting (back break and breakage from subdrilling and blasting) may potentially cause new and numerous routes to both ground water and surface water. Such impacts have not been considered in the reports, including the Environmental Report.

It is our understanding that the effects being cited due to blasting are part of the reason for the setback areas surrounding the proposed operation. Comments on the blasting activities and design are outside of our area of expertise and we defer any response to a blasting expert.

**HLAR response: There is a lack of coordination between the environmental report and the blasting impact analysis that must be addressed.**

The Applicant has not proposed any coherent site plan conditions, having cut and pasted only conclusions from the Hydrogeological Summary Statement, without reflecting its recommendations. No contingency plan is indicated in the Site Plan Conditions, including financial assurance, etc. Frequent, routine monitoring and reporting on the depth of excavation should be a site plan condition to ensure excavation does not extend below 1.5-2.0 metres above the water table.

The applicant has had initial discussions with MNRF regarding a surface and groundwater monitoring plan. This plan would not only monitor the high water table but could provide useful information on water quality both on and off of the site.

**HLAR response: We would expect at least a preliminary monitoring plan in order to review it. There is no contingency**

**plan in the Site Plan notes, including financial assurance, etc. Frequent, routine monitoring and reporting on the depth of excavation should be a site plan condition to ensure excavation does not extend below 1.5-2.0 metres above the water table.**

A diagram is required to show the exact depth of excavation permitted for the entire proposed site, rather than a vague 12-metre range.

The Hydrogeological Summary Statement at page 5 cautions that “for the site to operate as an above water table operation, care must be taken to ensure the depth of excavation is limited in the vicinity of any nearby surface water feature.” This indicates a very delicate balancing act to ensure no damage to groundwater and surface water. The Hydrogeological Summary Statement continues, “[...]pit/quarry base elevations in the immediate vicinity of this surface water feature may require adjustment in order to maintain the required freeboard between the pit base and the local watertable surface associated with these surface water features.” HLAR requests this be confirmed prior to consideration of the Application by the Ministry.

**As stated previously, this cautionary statement was placed in the report in recognition that the water table may rise locally in the vicinity of any surface water tributary entering the site. The operator must, at all times, maintain the operation with a minimum freeboard of 1.5 m above the water table in overburden materials, and 2.0 m above the water table in bedrock.**

**HLAR response: Please see our comments above regarding monitoring, reporting and auditing of such water table reviews.**

Therefore, additional investigation of groundwater flow and conditions, and review of the test pit/borehole data is needed to ensure no adverse impacts.

Contrary to Policy 4.01.04, the Timbercraft Consultation Inc. and Pebble Beach Aggregate Summary Statement Report does not confirm whether the testing for water table elevation occurred during a seasonal high.

**A statement is contained in the Groundwater Summary Statement that clearly states “The water levels presented in Figure 4 are considered to be representative of the highest groundwater conditions on-site”.**

Please also refer to our comments above in “(a) Drainage” and “(a) Natural Heritage”.

(f) *Planning and land use considerations.*

The Minister must strive to keep with the intent of the Provincial Policy Statement (“PPS”) and be consistent with municipal comments, and address their concerns.

Under the *Planning Act* subsection 6(2), MNR is required to consult with municipalities in considering aggregate permits. Per Policy 4.00.03, MNR may wish to be consistent with municipal comments, and address the concerns of the Township.

The County of Haliburton Official Plan 2017 (adopted but not yet approved) Policy 6.3.5 identifies mineral aggregate uses as Class III industrial uses, and requires a minimum setback from the property line of 300 metres. The Permit Application is within the required setback area, and its potential influence area of 1000 metres captures most if not all residences on Harvey Lake. Therefore, per this policy, appropriate studies must be conducted for the influence area (e.g. dust and air quality, traffic, noise and vibration).

Township Official Plan section 5.5.8 states a new Aggregate Quarry shall be limited to 1 km from the Waterfront designation (Harvey Lake). However, the proposed site is a mere 170 metres from Harvey Lake.

The proposed site is also in close proximity to the unnamed tributary and identified meadow marsh, which is zoned “Environmental Protection” (Township Zoning By-law, 03-22, Schedule G3).

Importantly, Township Council passed a resolution clearly stating its position that the Applicant obtain appropriate planning permissions for the new aggregate operation:

That the MNR include, as a condition of the application, that the proponent conform to Policy 5.5.7 of the Township’s Official Plan and successfully obtain from the Township an Official Plan amendment and Zoning By-Law amendment prior to any work on the site related to the proposed expansion.

Please advise whether the Applicant will address the above land use planning considerations and, if so, how?

As stated above:

As I indicated at the Information Session, the MNRF CLUPA (Crown Land Use Policy Atlas) states that aggregate extraction is a permitted use in this area.

In the Township's Official Plan, Section 5.5.5. mineral aggregate extraction and associated uses are permitted uses within the areas designated "Mineral Aggregate" on Schedule "A". This designation identifies areas where mineral aggregate extraction is presently carried out and includes known public or private pits or quarries where extraction or harvesting has occurred in the last ten (10) years. The existing permit is identified on Schedule `A`. `Schedule "B" identifies areas where mineral aggregate deposits may exist and have the potential to supply aggregate demand in the future. There is a good degree of overlap between the area outlined on Schedule `B` and the proposed area for the Permit.

It is my understanding that MNRF will meet with the Township to discuss the Resolution passed by council and the applicant is prepared to abide by any decisions made by MNRF.

**HLAR response: Please see above regarding Official Plan Policy 5.5.8.**

*(g) Main haulage routes and proposed truck traffic to and from the site.*

HLAR advises the proposed haul route has in the recent past included school bus travel for local children. The route is very hilly with many sharp turns, winding roads, and limited sight lines. HLAR is concerned with the risk haul trucks pose to the traveling public.

The applicant will continue to make a solid effort to educate the truck drivers utilizing the permit so that safety is of prime importance on the roads. The drivers must have due concern and respect for others that share the roads, including: cars, trucks, bicyclists, pedestrians and small motorized vehicles.

Eric has indicated that he is not aware of any accidents involving John Bacher Construction trucks and will continue to stress that road safety is very important to him.

The number of trucks per hour will depend on the job the permittee is hauling to. The current permit currently averages 300-400 trucks per year and this will increase at times due to the demand for crushed rock. Some days will be busy; although on many of the days



there will be no trucks.

Whether the trucks come from this pit/quarry or from another source, most likely off of Highway 35, there will be truck traffic impacting the road. Having a local source of crushed rock could actually reduce the number of kilometers travelled by trucks on the municipal roads east of Highway 35.

**HLAR response: We have earlier commented on the conflicting information on site operations and the need to understand existing production volume, the meaning of “short term” volume estimates, potential size of anticipated municipal contracts, and the impact on hauling material off-site to larger crushers to other licensed sites of the Applicant, or of hauling materials on-site if a larger crusher is installed near Harvey Lake. The Applicant must assess all the scenarios in order to properly evaluate the traffic impact and haul route safety.**

HLAR requests an expert report determine and assess the impacts of the proposed operation on the local road network, need for entrance upgrades, road conditions/geometry and safety concerns, possible need for alternate routes, and other potential traffic implications.

It is my understanding that the current entrance to the permit was changed to address Township concerns.

The possible need for alternative routes make little sense as there are not any.

**HLAR response: Please confirm the proposed location of the entrance on the site plan or map: will it remain as-is, or be relocated?**

This report would then be shared with HLAR and the public. This analysis should then be peer reviewed by MNR or the appropriate commenting agency with necessary expertise (e.g. the County or Township).

Township Council Resolution dated August 7, 2017 requests a Pavement Design Review be completed by the Applicant to determine the potential impacts on municipal infrastructure, which have not been assessed by the Applicant to date. HLAR echoes this request.

The Applicant produced no traffic impact report or clear estimate of the number of trucks based on the Permit Application. At the July 29, 2017 public meeting, the Applicant advised 300-400 trucks would be expected

if annual tonnage is 6,000-8,000. This estimate raises many questions. For example, is it based on return trips (ingress and egress as one trip)? What is the worst case scenario if truck traffic is limited to certain months of the year? Etc.

As stated above, whether the trucks come from this pit/quarry or from another source, most likely off of Highway 35, there will be truck traffic impacting the road. Having a local source of crushed rock could actually reduce the number of kilometers travelled by trucks on the municipal roads east of Highway 35.

**HLAR response: See above request for information on truck traffic estimates and haul routes based on professional advice.**

HLAR requests responses to the above issues.

(h) *Quality and quantity of aggregates on site.*

Blasting a sensitive natural feature should not occur.

I am not sure what you mean. There will be no blasting of any sensitive natural features.

**HLAR response: The statement was intended to read that blasting near sensitive natural features should not occur in order to ensure their protection.**

Most particularly it should be strictly prohibited without the clearest of demonstration of need. Gneiss rock is extremely abundant in Ontario. MNRF Policy 4.00.03 recommends “suitable” information on the sufficiency of aggregate quality and quantity be provided to support permitting of the site.

I feel that we have sufficient information on the quality and quantity of rock to meet the demand both now and well into the future.

**HLAR response: The Applicant has provided no publicly available report on the quality and quantity of rock in order to substantiate this response. This relates to HLAR prior comments regarding conflicting accounts from the Applicant of potential volumes. In order to address this concern, it is incumbent upon the proponent to provide this documented information through this open and transparent consultation process.**

The Permit Application lacks any information to determine whether there is sufficient quality and quantity of material for an aggregate permit, per MNRFP Policy. While the Applicant originally proposed extraction of 285,000 t/a, the Applicant publicly stated at the Public Meeting that it requires 10,000 t/a, thereby calling into question the need for the proposed 53-acre site. There are several pits and quarries in close proximity to the proposed site with similarly low extraction limits, but of much smaller size, and a very small market in proximity to the site.

The one quarry in close proximity to the site has been dormant for over 20 years and was mainly used for architectural stone (fireplaces, walkways, etc.). It would not be practical to use this site to produce aggregate and the tonnage limit is too low. Currently quarried stone must come from the quarries located at a fair distance to the local area. There has been mention of the small market for quarried stone. Is this based on the availability of actual data or is it just a statement based on opinion?

You should also be aware of the size of some additional operations in the area off of Highway 35 north of Dorset. The 90 Ha Licence and the MTO pit are located just north of the MTO permit you refer to above.

- Licence for pit and quarry – 120 Ha - unlimited tonnage
- Licence for pit and quarry – 90 Ha. – unlimited tonnage
- Permit for sand – 20 Ha - unlimited tonnage
- MTO Permit for sand 17.5 Ha - unlimited tonnage

**HLAR response: The comments above do not provide detail on the information source and the conclusion is unclear. Is the local market the 6-10,000 tpa as suggested by the proponent? We have previously commented on the suitability of some of these larger operations vs. the Permit Application, based on their proximity to Hwy 35 and larger separation distance (i.e. more than 170 metres) from recreational/residential properties on lakes.**

The rock formation on proposed site is not unique and could likely be extracted from less environmentally sensitive areas, and at a greater distance from sensitive receptors.

There have been no comments made as to whether the rock is unique or not. Would you be able to provide me with a description of the rock with regard to its ability to provide high quality aggregate?

**HLAR response: With respect, through this “proponent led process” it is incumbent upon the Applicant to provide HLAR with this information and to prove the uniqueness of the rock in order to address the objection. The information provided by the proponent provides no indication the rock is of high quality or unique.**

(i) *Size of the permitted area.*

Per MNRF Policy 4.00.03, the size of the permit area should reflect the availability of the resource and nature of deposit. No Bedrock Quality Assessment was completed for the Permit Application.

Quality and quantity information was not submitted to MNRF but the applicant is satisfied that there are sufficient reserves of an aggregate suitable to meet his needs and the needs of the local market well into the future.

**HLAR response: Please refer to above comments regarding the aggregate quantity and quality, and Applicant’s proposed extraction volume. HLAR sees no evidence in the Permit Application to justify the proposed 53-acre footprint at this time for the area. The Applicant is clear it seeks to establish a licensed reserve for several generations of the family, and not just service current local demand. Again, there is no protection that future owners would restrict their operations to local demand. The nature of the Permit Application provides very wide scope to change the focus and intensity of operations with no additional considerations (e.g. traffic and road safety impacts). We note that local operations were recently hauling aggregate to Toronto in response to emergency conditions, so there is no guarantee that future operations would be constrained only by local demand if the large extraction limits proposed are granted.**

Therefore, there is no indication of the suitability of the site for future commercial applications. There is no estimate of the total quantity of resource available above the water table.

This statement is incorrect as an indication of probable reserves in Phase 1 was given at the information meeting.

**HLAR response: HLAR's recollection is that very wide range was indicated verbally and couched as "I think". Various reserve numbers have been presented and later changed. Please provide your current estimate of Phase 1 reserve.**

(j) *Applicant's past history of compliance.*

We request disclosure of any past history of the Applicant with compliance issues, whether uncovered by MNRFF or disclosed by the Applicant in Annual Reports. The Applicant operates at least several aggregate operations in the area. We note Existing Permit #16023 to the north east of the site, as indicated on the Site Plan Drawings, was granted to the Applicant for a similar maximum annual tonnage (10,000) but for a much smaller area of 2.96 ha.

I feel that MNRFF would be the best source for this information.

**This letter is co-addressed to Mr Schosser and we request MNRFF to provide this information.**

The Site Plan also indicates two smaller areas of existing excavation within the proposed extractive area. Were these two areas excavated by the Applicant, and if so, do they form part of the Existing Permit?

The two areas were not extracted by the applicant and they are not within the existing permit.

**HLAR response: Please advise if these two operations will continue to operate, and if yes, if there are any cumulative effects to be considered.**

(k) *Environmental Assessment Act (EAA).*

This is addressed below, in order to respond directly to requirements and considerations per the MNRFF Class EA. We note additional time for comments may be required, given the nature of the technical reports and short timeframe. In particular, response time may often be difficult for First Nations, who have hundreds of similar notices to consider in a given year within their traditional territories.

(1) *Other matters considered appropriate.*

HLAR provides justification below for other matters to be considered with the Permit Application, in accordance with MNR Policy 4.00.03, as follows.

MNR Statement of Environmental Values

Section 11 of the *Environmental Bill of Rights, 1993* broadly requires MNR to consider its Statement of Environmental Values (“SEV”) “whenever decisions that might significantly affect the environment are made in the ministry.” [emphasis added]. As the proposed activities of the Permit Application may significantly affect the environment, it is reasonable for the Ministry, and the Applicant, to consider the SEV in this case<sup>11</sup>.

**It is MNR’s responsibility to ensure that its policies and procedures respect their SEV and we are not in a position to change those since this is a single aggregate application.**

Applied to this case, the following principles from the MNR SEV must be considered for the Permit Application and Class EA categorization decision:

- “*A sound understanding of natural and ecological systems and how our actions affect them is key to achieving sustainability.*” The Permit Application technical reports do not demonstrate a sound understanding of the potential impacts to the natural and ecological systems on and adjacent to the proposed site (e.g. impact of predicted airborne particulate on wildlife and natural heritage features/functions). Additional information is required, as discussed above.

**Dust will be mitigated as stated previously with water or another provincially approved dust suppressant to haul roads and processing areas.**

- “*As our understanding of the way the natural world works and how our actions affect it is often incomplete, MNR staff should exercise caution and special concern for natural values in the face of such uncertainty.*” The precautionary approach is to be followed in face of uncertainty, such as the uncertain impacts from the Permit Application on rare and sensitive environments (e.g. bog). Therefore, greater setbacks from significant wildlife habitat and

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<sup>11</sup> *Lafarge Canada Inc. v. Ontario (Environmental Review Tribunal, 2008 CanLii 30290 (Ont. Div. Ct.).*

residences should be considered, in order to protect the environment.

- *“Those affected by proposed changes must have access to information and opportunities to provide input to decisions that affect their lives”*. While HLAR does have access to all technical reports to date, HLAR still requires access to all information necessary in order to provide meaningful input to decisions that will impact their residences. There are information gaps that must be addressed by the Applicant, discussed above.
- *“An ecosystem approach to managing our natural resources enables a holistic perspective of social, economic and ecological aspects and provides the context for integrated resource management.”* The Environmental Report does not adopt an ecosystem approach to considering the site and adjacent lands as a whole, but rather views these elements as discrete features. The social and economic aspects of the Permit Application have not been adequately studied, if at all, and must be prior to consideration of the Application.

Based on the comment, it appears that you are objecting to the ARA process and policies that are currently in place that apply to all aggregate operations and applications. The changes and revisions that you are requesting are at a much higher level than a single aggregate application.

The “Natural Environment Report” does not address social and economic aspects of the permit as it addresses the natural heritage features and fish habitat within 120m adjacent lands, which have been addressed in the report.

**HLAR Response: This understanding of our comment is incorrect: the ARA process and policies are to be understood as explained above, which is a reference to MNRFP policy. For example, a Natural Environment Report, to assess predicted impacts and recommend appropriate mitigation, must necessarily include a review and coordinate the recommendations of various reports.**

**Per MNRFP SEV Policy, have social and economic impacts been considered and addressed? Studies have shown that Property Tax Assessment/ Land values can drop by as much as 30% in the vicinity of a pit or quarry, beginning as soon as the application for a permit is announced. One way this**

can occur is through Full Cost Accounting and Financial Assurance Agreements.<sup>12</sup>

- “*Rehabilitating degraded environments is an important aspect of resource stewardship.*” Therefore, additional consideration is required for the proposed progressive rehabilitation matters, as discussed above.

Rehabilitation is part of the Site Plan and Site Plan Notes and has to be approved by MNRF.

### Ontario Wetland Policy

On July 20, 2017, the Province released A Wetland Conservation Strategy for Ontario 2017-2030<sup>13</sup> (“Ontario Wetland Strategy”) and identified wetland conservation as a critical Province-wide goal. The Ontario Wetland Strategy recognizes the MNRF must consider wetlands when making decisions per the ARA.<sup>14</sup> Wetlands are integral components of the natural heritage and hydrologic systems, and are to be conserved using a precautionary approach with the following hierarchy: protection, mitigation, and restoration.<sup>15</sup>

The Permit Application proposes to retain the area of wetlands within the permitted area, but does not consider mitigation that may be required due to site operations (e.g. dust, blasting, drainage) or restoration after excavation. There is no description of the reciprocal relationship between the wetlands, ground and surface water features, nor of the relationship/connection between the various wetland types in the proposed Permit Area and adjacent lands.<sup>16</sup>

HLAR requests additional information regarding impacts to wetland and the broader landscape, and consideration of Ontario’s Wetland Strategy for the Application.

Wetlands were considered and will be retained with a suitable vegetated buffer.

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<sup>12</sup> See [http://www.pitsense.ca/position\\_papers.html](http://www.pitsense.ca/position_papers.html)  
<http://www.lansinkappraisals.com/downloads/Lansink%27s%20Case%20Study%20Pit%20or%20Quarry%20Jan%202014.pdf>.

<sup>13</sup> Ontario Ministry of Natural Resources and Forestry, A Wetland Conservation Strategy for Ontario 2017-2030 (Toronto, ON: Queen’s Printer for Ontario, 2017).

<sup>14</sup> *Ibid* at p. 11.

<sup>15</sup> *Ibid* at p. 25.

<sup>16</sup> As required in the Wetland Conservation Strategy for Ontario, *ibid* at p. 31.



Dust will be mitigated as stated previously with water or another provincially approved dust suppressant to haul roads and processing areas.

Blasting – blast mats will be used as required

Drainage information is included in the Site Plan and Site Plan Notes and is negotiated and approved by MNRF.

Rehabilitation is part of the Site Plan and Site Plan Notes and is negotiated and approved by MNRF.

**HLAR response: Please see above concerns. Please specify the exact timeframe (months, days, and hours) proposed for crushing activities and mitigation measures.**

Annual Maximum Tonnage

The impacts of the Permit Application also depend on the annual tonnage limit. HLAR requests a fixed annual limit of 10,000 tonnes/annum, as proposed by the Applicant on July 29, 2017.

This figure was not proposed by the applicant. It was only an estimate of the amount of rock he might require per year for the immediate future, based on his knowledge of the local demand for aggregate.

**HLAR response: See above noted concerns about varying and unclear reports on annual tonnage. Thank you for confirming the stated local market demand of 10,000 tpa.**

Non-Compliance with MNRF Policy: Cultural Heritage

MNRF Policy 4.01.07 is clear: if a Stage 2 Archaeological Report is required, the Report is required to be submitted and approved by the Ministry of Tourism, Culture and Sport (“MTCS”) for a complete application.

The Horizon Archaeology Inc. (Dayle A. Elder, MA), *Stage 1 Background Study of Bacher Construction Aggregate Pit, Part Lots 11 & 12, Concession 2, former Township of McClintock, Township of Algonquin Highlands, County of Haliburton* (14 September 2016) (the “Stage 1 Archaeological Report”) finds a High Potential Area outside of ESA protection zones, where a Stage 2 Archaeological Assessment is required.<sup>17</sup>

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<sup>17</sup> See page 17.

Therefore, a Stage 2 Report must be completed forthwith, or else the High Potential Area must be removed from the permitted extraction area on the site plan, with the appropriate buffer to protect any potential archaeological resources.

If MNRF feels that they should be removed from the permitted extraction area, then they will be removed.

**HLAR response: This objection, based on the referenced MNRF Policy, could be easily resolved in the Applicant committed to adhering to the straightforward policy.**

All High Potential Areas should be appropriately buffered, groundtruthed and clearly indicated on-site (including buffer) as outside the permitted area, a required Site Plan Condition, to prevent any unintentional disturbance.

We also note the Site Plan Drawings indicate the extraction limit within the northeastern Stage 2 Area. This line is required to be further set back. The Site Plan should also note the potential requirement for additional Stage 2 Reports, should the proposed area set aside as Blanding's habitat be changed.

Further, the Stage 1 Archaeological Report does not consider the concept of a "cultural heritage landscape". The definition for "cultural heritage landscapes" in the 2014 PPS is:

Cultural heritage landscape: means a defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal community. The area may involve features such as structures, spaces, archaeological sites or natural elements that are valued together for their interrelationship, meaning or association. Examples may include, but are not limited to, heritage conservation districts designated under the Ontario Heritage Act; villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways, viewsheds, natural areas and industrial complexes of heritage significance; and areas recognized by federal governments.

Policy 2.6.1 of the PPS and Policy 6.4.7 of the Township Official Plan require the conservation of "significant cultural heritage

landscapes”. Horizon Archaeology Inc. notes the key archaeological Township Official Plan policies, and references a requirement by the County of Haliburton to contact the Algonquins of Ontario with regard to archaeology in the County, but it does not appear this was done.

**Consultation was carried out as directed by MNRF.**

#### Aboriginal Consultation

Ignoring the rights of Aboriginal communities is a fundamental constitutional error. To date, we see no evidence of consultation with Aboriginal communities, save for the 30-day notice period provided to the Williams Treaties First Nations. We are aware that several of the Williams Treaties First Nations do have their own individual consultation protocol, which must be respected.

**We did consult with all of the Williams Treaties First Nations and if MNRF feels that additional ongoing consultation is required, then we will gladly comply.**

The Ministry has delegated procedural aspects of consultation to the Applicant. We stress that the Ministry’s duty to consult extends beyond the provision of notice. The nature of the asserted Aboriginal right dictates the degree of consultation required. The degree of consultation and accommodation required lies on a spectrum; that being the Crown’s duty to consult and accommodate the asserted Aboriginal interest “is proportionate to a preliminary assessment of the strength of the case supporting the existence of the right or title, and to the seriousness of the potentially adverse effect upon the right or title claimed.”<sup>18</sup>

A dubious or peripheral claim may attract a mere duty of notice, while a stronger claim may attract more stringent duties. That is, the degree of consultation may vary from notice to more meaningful involvement.

The Archaeological Assessment Stage 1 does not consider the possibility of a cultural heritage landscape. PPS Policy 2.6.5 requires the MNRF and the Township to consider the interests of conserving cultural heritage resources and archaeological resources. Policy 4.6 requires the PPS to be implemented in a manner that is consistent with section 35 of the *Constitution Act, 1982*.

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<sup>18</sup> *Tsilhqot’in v. British Columbia*, [2014] 2 SCR 257 at para 17, citing *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73, [2004] 3 SCR 511 at para 37.

## **Comments on Class Environmental Assessment Process and Categorization**

Per the Ministry's Public Notice Requesting Input to a Screening Process correspondence, we provide summary comments on the appropriate Class EA category for the Permit Application, based on the above submissions regarding MNRF policy on considerations for aggregate operations.

### **HLAR additional comment: We note the Applicant did not respond to our request to elevate the Permit Application to Category C or D.**

The Ministry should assign the Permit Application to Category C or D for the following reasons<sup>19</sup>:

1. The concern of the local community regarding this project is high. In particular, the HLAR include the residences within 800 metres of the proposed Aggregate Site.
2. There is at least a medium potential for net negative effects, in particular on enjoyment of property (noise, dust, visual impacts), potential groundwater/drinking water impacts, and increased demands on infrastructure (Algonquin Highlands has requested a pavement study).
3. There is uncertainty associated with the prediction of effects of the proposed aggregation operation, including noise, traffic patterns and traffic infrastructure, view and aesthetics, air quality, ecological integrity, terrestrial wildlife, terrestrial habitat linkages (fragmentation). These effects require mitigation techniques tailored to the project, that are peer reviewed by the Ministry (e.g. species at risk, such as additional protective measures for the Blanding's turtle) and other relevant agencies (e.g. MOECC for noise/air quality/hydrogeology, DFO for fish habitat). These effects will be of unknown duration and frequency, as extraction is dependent on market conditions. Therefore, the effects will be of greater significance as they will be more spread out over the longer term.
4. Additional evaluation and information is required to fully define the project (proposed end use for extracted aggregate) and required mitigation techniques, if approved (e.g. noise). For example, the level of detail provided for rehabilitation is very low (Condition 1.34) and has neither been considered nor reviewed by the Applicant's consultant

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<sup>19</sup> Per Class EA Tables 3.1 (Screening Criteria) and 3.2 (Considerations for Assigning Projects to Categories).

biologist. There is no detail provided on potential impacts on the environment from traffic or particulate matter (dust).

5. There appears to be potential for serious negative effects on species at risk and natural heritage features and functions, per gaps in the Environmental Report and Ministry knowledge of the area. As discussed in section (a), above, the aggregate operation would fragment diverse habitats from each other for an unknown but presumably lengthy period of time. The impacts of dust and noise (blasting) on species at risk, other wildlife and natural heritage features and functions has not been assessed.

The applicant's consultant is currently in discussion with MNRFP regarding species at risk.

**HLAR response: Please share the content of this discussion with HLAR, as it is directly related to our objections.**

6. The Permit Application contains a very high degree of vagueness and uncertainty in its assessments, predictions and proposed mitigation. This elevates the potential for negative net effects of the Permit Application.

The Permit Application and its associated technical reports do not demonstrate a high degree of certainty for predicted effects. One example is the Hydrogeological Summary Statement, which does not consider the potential for rock fractures or their impact on groundwater and surface water. The Noise Report depends on incorrect assumptions, and mitigation measures not agreed to by the Applicant. There is no high degree of certainty that effects will be appropriately mitigated, due to the need for additional information to address flaws and gaps in the technical reports (e.g. dust/particulate matter impact on the environment).

This uncertainty of impacts is compounded by the proposed Site Plan Conditions, which we also understand are currently being revised by the Applicant. The Site Plan Conditions use permissive, weak language, rather than clear mandatory language. E.g. Site Plan Condition 1.44 "...extraction activities should avoid excavations...", rather than "extraction activities shall avoid excavations...". This must be addressed.

This has been addressed and thank you for the comment

Additional precision is required for many Site Plan Conditions. For example, how will wetland buffer areas or potential bat roosting trees be marked, to prevent unintended destruction? How will quarry staff be familiarized with species at risk? A comprehensive list may be provided at a later date, following updates to and new technical reports.

The marking of the bat trees and wetland areas will be carried out after issuance of the permit and discussions with MNRF. The education of quarry staff will be overseen by the consulting biologist

In contrast, Category B proposals have low to medium potential for significant net environment effects or public concerns, which is clearly not the case with the Permit Application. Unlike Category B proposals, the Permit Application's effects are not well understood technically, nor are they minor in nature or short in duration. With regards to duration, there is no estimate of the lifespan of the aggregate operation, and Site Plan Condition 1.46 proposes the operation run 24 hours per day, seven days per week. This increases the time frame for effects.

**HLAR additional comment: Unlike Category B proposals, the Permit Application's effects are not well understood technically, nor are they minor in nature or short in duration. With regards to duration, there is no estimate of the lifespan of the aggregate operation and therefore longer impact on the environment.**

There is no estimate of the lifespan of the quarry as it is dependent on the market – 50 years plus or minus might be one estimate. As you should be aware from what was presented at the Information meeting, the hours of operation have been modified.

**HLAR response: We request confirmation of the hours of operations. HLAR is concerned and unsatisfied with the proposed hours of operation.**

More comprehensive public and agency review is required for the Permit Application. Therefore, the project category must be elevated.

### **Request for Referral of Technical Reports to MOECC**

Curiously, the Applicant's Summary Statement did not identify the MOECC as an agency circulation contact. Therefore, it does not appear there will be qualified peer review of the Hydrogeology Summary Statement, Noise Report, Blast Impact Report, or appropriate consideration of surface drainage issues. We urge the Applicant to have its application circulated for MOECC comment.

Again, we have taken direction from MNRF. I feel that a report from a well-qualified and experienced professional should be able to stand on its own, but if requested we will follow MNRF's direction.

**HLAR response: Peer review by qualified professionals is a routine part of the scientific and application process. HLAR's request for a bump-up to a minimum Category C Class EA classification could assist in ensuring appropriate peer review.**

MNRF Policy No. 4.01.01c requires notice to the MOECC Regional Office. Please confirm this notice was provided.

The first EA Notice has been forwarded to MOECC.

Further, per Policy No. 4.01.08, please advise why the Permit Application was apparently not circulated to the MOECC. We draw this conclusion from the fact the MOECC was not included in the list of commenting agencies. In our considerable experience, MNRF does not have the same technical expertise on these issues as MOECC, which regularly processes applications related to hydrogeology, hydrology, drainage, air, and noise and vibration.

MNRF will have to address this as we followed their direction as to agency circulation.

**HLAR response: We request this from the MNRF.**

### **Conclusions**

HLAR requests the Ministry assign the Permit Application to the Class EA Category "C" or "D". This request is based on consideration of HLAR's comments on the Permit Application.

We note MNRF Policy 4.00.00 indicates requests for additional information, per subsection ARA 36(2), may be considered where exceptional circumstances relate to the application site. Exceptional circumstances do exist with this site. First, the proposed site is immediately adjacent to sensitive receptors.

**HLAR additional note: The site is a mere 200 metres to cottages who have become accustomed to the ambient sounds of nature as well as clean drinking water and a peaceful environment 24/7.**

Second, the MNRF has requested additional information to date, recognizing exceptional circumstances do exist (e.g. Hydrogeological Summary Statement). Third, the site and adjacent lands contain a high diversity of connected ecosystems, with species at risk present, a rare bog, significant wildlife habitat, potential endangered bat habitat, and fish habitat.

HLAR re-iterates its above requests regarding the need for additional information, including the following revised reports or new technical studies:

1. Revised Noise Report;
2. Revised Blast Impact Assessment;
3. Revised Environmental Report;

**HLAR additional comment per the Applicant's responses: particularly pertaining to the erroneous premise that this is based on aggregate operations being kept to the northeastern limits of the permit area.**

4. Revised Hydrogeological Summary Statement (full hydrogeological report);
5. Report on hydrology/surface drainage;
6. Particulate Matter/Dust Impact Analysis;
7. Bedrock Quality Assessment;
8. Market Analysis;
9. Visual Impact Analysis; and
10. Traffic Impact and Safety Analysis.

Harvey Lake Area Residents provide the following brief summary of key concerns from its submissions regarding the Application:

1. There are numerous technical deficiencies that must, at the very least, be addressed by the Applicant before the Application proceeds further including:
  - (i) Proposed noise mitigation shielding is insufficient for the sound receptors in extreme proximity to the operation;

Report demonstrates compliance with the MOE guideline limits. Thus, additional shielding is not needed.

**HLAR response: HLAR has restated and clarified its concerns with respect to the Noise and Blast Impact Reports following the Applicant's comments. The Noise Report should be peer reviewed, especially given the proximity of the operation to residences.**

- (ii) Lack of dust modelling and lack of emission dispersion summary, in particular from fugitive sources of dust, at the Harvey Lake Cottage property lines (as the point of



impingement), and corresponding impact on the natural environment;

**HLAR additional comment: The photograph, unsubstantiated evidence, does not address HLAR's concern.**

- (iii) The Blast Impact Analysis is flawed as it does not account for actual operating conditions;
- (iv) As a result of errors in the Blast Impact Report, the Noise Report does not reflect worst-case conditions, as is required per NPC-300;
- (v) Anticipated rock fractures from blasting (back break and breakage from subdrilling and blasting) causing potentially new and numerous routes to both ground water and surface water have not been considered;
- (vi) The Applicant proposes use of high potential contaminant ANFO as the explosive, instead of more expensive environmentally-friendly gels, and does not assess the potential impact of ANFO on the environment;

**HLAR additional comment: Would require this assessment.**

- (vii) Strong safety concerns that “overpressure and flyrock from the face will be away from structures as much as possible”. Accordingly, operations have been designed to follow a general North to South retreat. HLAR has great concerns that once the Applicant reaches Phase II, the residents of Harvey Lake will be in direct danger of flyrock;

**HLAR additional comment: This concern remains. Accordingly, operations have been designed to follow a general north to south retreat. HLAR has great concerns that once the Applicant reaches Phase II, the residents of Harvey Lake will be in direct danger of flyrock. This means that in 20-30 years, ours properties and grandchildren may be less safe.**

- (viii) Lack of a run-off prevention plan, relying instead on infiltration;

**HLAR additional comment: This remains a significant concern and no runoff prevention plan has been circulated.**

- (ix) Proposed buffers for wetland and habitat protection on the proposed site and adjacent lands;

Please read above about reasoning behind proposed buffers. Correspondence is occurring with MNRF to ensure appropriate habitat protection of the Blanding's turtle.

**HLAR response: Your position was reviewed. We request updates on the requested changes to provide appropriate habitat protection.**

- (x) The potential for spills/transportation of contaminants via surface or groundwater to Harvey Lake, with no plans or Site Plan Conditions requiring routine monitoring and contaminant testing (e.g. benzene, toluene, ethylbenzene and xylene) testing;
- (xi) Seeming lack of drilled monitoring wells on the proposed quarry site to monitor for groundwater and baseline chemistry and toxicity parameters for all four seasons (one full hydrological cycle) prior to operations;
- (xii) Lack of a Storm Water Management plan or consideration of impacts to drainage and the environment;
- (xiii) Lack of water treatment plan for spring pump-out, should infiltration constraints impact quarry operations;
- (xiv) Lack of a Spills Contingency and Response plan;
- (xv) Lack of water and dust sampling plans for those residents who require lake in-take water supplies; and,
- (xvi) In general, the Site Plan Conditions are vague and there is lack of monitoring requirements for several

media (noise, groundwater, surface water, vibration, airborne particulate matter);

2. Traffic Impact Analysis is required, given the characteristics of the proposed haul route (winding roads, limited sight lines, as well as lakeside roads, etc) and vague details on the operation.
3. There are enough significant omissions in the Acoustic Assessment Report that residents, some of whom were not accounted for, cannot be *guaranteed that their tranquil environment will be maintained and early morning calm enhanced.*

What omissions?

Not sure who was missed, if any? If they are in the same direction but further removed, they would inherently comply with noise guideline limits.

Compliance with guideline limit is the requirement. The limits apply to remote wilderness areas as well.

**HLAR response: The errors and omission are detailed earlier. HLAR residents who are a mere 200 metres away from the operation are not satisfied that their tranquil environment, dominated by the sounds of nature, will not be disturbed won't be disturbed. One resident suffers from severe migraines as well. This calls into question the community-approach by the Applicant with residents so close to the operation and "at" the limit of the Guideline.**

4. There has been no demonstration of no negative impacts to nearby Harvey Lake (a mere 170 metres away).

The Groundwater Summary Statement establishes operating criteria related to the depth of excavation and the preservation of a minimum separation distance between the pit floor and the underlying water table. As stated in the report "It is our interpretation that the proposed aggregate pit and quarry development, which is proposed to remain above the water table, will have no impact on the underlying groundwater flow system or potential nearby groundwater users." If there is no calculated impact on the local groundwater system, because the water table is not being encountered by the site activities, then the groundwater

discharges to downgradient areas will not be negatively affected by the proposed operation.

**HLAR response:** We find the report to be inconclusive and not sufficiently comprehensive. A baseline study should be completed and tested against regular updates.

5. The Permit Application directly contravenes 5.5.8 of the Township of Algonquin Highlands Official Town Plan and does not meet zoning requirements.

**HLAR additional comment:** HLAR still expects the Applicant to comply with the Township Official Plan

6. Aboriginal communities do not appear to have been consulted.
7. The revised operational plan calls for 75,000 tonnes annually; however, the Applicant states there is only a market for 10,000 tonnes/annum. The Applicant also requests an extremely large permitted area, relative to other aggregate operations in the area and market demand.

**HLAR additional comment:** To emphasize above comments, we request a definitive statement from the Applicant on this issue of volume due to conflicting accounts through the Applicant's response, application, information at public meeting, and in the media. It is our understanding the Applicant intends to provide aggregate for municipal and/or MTO projects that are not local, with impacts on local residents from pollution and noise. The Permit Application, if approved, could support bids for larger contract in conjunction with the Applicant's other operations (e.g. nearby on Regional Road 8), although the tonnage extracted from the Proposed operation near to residents could be lower in order to address potential impacts.

It is unsatisfactory that the applicant has stated on August 21, 2017 to the Township of Algonquin Highlands "The annual tonnage for the proposed permit has been reduced to 75,000 tonnes per year, although it is expected that no more than 10,000 to 20,000 tonnes would be hauled in any given year." There is no justification to strip this local land or reserve it for extraction so far into the future, given its sensitive location.

8. Due to proximity of residents, the Applicant proposed operations when leaves are on the trees –this would include the summer months when the large majority of residential property owners expect the reasonable enjoyment of their properties.

**HLAR additional comment: September and October operations could mean the “at limits’ reported in the noise report would be far higher. Please see above note.**

Please do not hesitate to contact me at 416-572-0464, or by email to [david@donnellylaw.ca](mailto:david@donnellylaw.ca), cc'ing [anne@donnellylaw.ca](mailto:anne@donnellylaw.ca), [should you have any questions or comments concerning this correspondence.](#)

Yours truly,



David R. Donnelly

cc. MNRF Minister  
Township  
County  
Williams Treaties First Nations  
Algonquins of Ontario