November 4, 2019

Ministry of Natural Resources and Forestry

Natural Resources Conservation Policy Branch

300 Water Street

Peterborough

ON K9J 3C7

Re: Submission from The Blue Mountain Watershed Trust (BMWT) to ERO proposal 019-0556 Proposed Amendments to the Aggregate Resources Act

Thank you for the opportunity to comment on the proposed changes to the Aggregate Resources Act (ARA).

The Blue Mountain Watershed Trust was incorporated in 1995 as a registered charitable organization. Our Mission Statement is: PRESERVE AND ENHANCE THE BLUE MOUNTAIN WATERSHED ECOSYSTEM. We support conservation of natural areas, educational activities, monitoring of water quality, tree planting, etc. Current membership is about 200 persons. Our area of interest totals about 90,000 hectares and includes six major watersheds that originate in the Niagara Escarpment and drain directly into Georgian Bay.

**Proposed Amendments to the Aggregate Resources Act**

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

BMWT Recommendation: A strong application process is required that includes mandatory concurrent licensing approvals overseen by a joint agency review team ensuring all approvals are dealt with at the same time rather than sequentially. Up to date standards and any changes in the environment and nearby communities that impact water resources must be measured more frequently as many pits and quarries operate for many years, or even decades. Applications that may impact water resources as well as natural environmental resources both on and off an extraction site must be reviewed by all stakeholders. Prior recommendations to treat the change from above to below groundwater extraction as requiring a new aggregate licence application would still be the preferred approach. *It is the primary responsibility of Ontario government at first instance to set and enforce clear, comprehensive and effective standards for protecting groundwater resources from extraction-related impacts*.

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

BMWT Recommendation: Ensuring to protect, improve and restore the quality and quantity of water must be included in all planning of depth extraction providing the opportunity to prevent any potential threat or impacts to source water. Conditions in the aggregate approval to protect the environment are rarely updated to ensure ongoing environmental protection throughout the duration of extraction. Municipalities need the ability to determine whether extraction occurs above or below the groundwater table and their tool for doing so is zoning.

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

The Blue Mountain Watershed Trust offers no comment on this proposal

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

BMWT Recommendation: Haul routes directly impact the environment and how they are considered under aggregate legislation directly impacts the areas currently under protection. New traffic studies could lead to different routes for trucks going into and out of the extraction sites taking into consideration the future transportation growth in areas which requires a higher level of oversight (Side Road 26/27 is an example﻿). Ensuring an increased level of environmental protection on risk-based approach to identify all considerations of haul routes if it does not in any way prohibit or limit the Minister or LPAT from considering the spectrum of transportation issues related to proposed aggregate extraction.

* improve access to aggregates in adjacent municipal road allowances through a simpler application process (i.e. amendment vs a new application) for an existing license holder, if supported by the municipality provide more flexibility for regulations to permit self-filing of routine site plan amendments, as long as regulatory conditions are met.

BMWT Recommendation: Allowing the removal of road allowances for sites where the opposite side of the allowance may have a land use other than extraction (such as a natural feature protection, agricultural use, or residential use, etc.) could impact the original evaluation of the extraction site’s viability for aggregate extraction. The road allowance could very well have been considered a necessary buffer or setback. If an expansion into a one-sided road allowance were to be requested, then a full new licence application process should be followed as the existing processes would require.

**Proposed Regulatory Changes**

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

BMWT Recommendation: Enhance reporting on rehabilitation would seem appropriate as the information currently being collected has been inadequate to truly understand the state of rehabilitation activities across Ontario. Less than 60% of aggregate sites had done progressive rehabilitation of sites still under production. The other 40% of sites had done no progressive rehabilitation.

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

The Blue Mountain Watershed Trust offers no comment on this proposal

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

Without a clarification on what type of activities would be considered “low-risk” it is difficult to comment on this proposed change.

* clarifying requirements for site plan amendment applications

BMWT Recommendation: Make recycled aggregate procurement policies a prerequisite to amended applications and increase extraction fees enough to make it happen. Application requirements and evaluation processes should ensure only appropriate and well-reviewed aggregate extraction activities take place.

* streamlining compliance reporting requirements, while maintaining the annual requirement

BMWT Recommendation: We would support a modernization of the existing reporting requirements to ensure they are meeting the current needs of the various stakeholders.

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

BMWT Recommendation: The existing requirements have fallen out of step with current societal expectations and fail to acknowledge the new technological tools that are now readily available. Significant opportunities remain on the table for lightening the environmental footprint of aggregates including decreasing the need for new sites, ensuring the environmental protection at operating sites, and decreasing the environmental impact at end-of-use sites.

BMWTConclusions:

Regulatory conditions for all amendment and new site applications should require a Recycling standard requirement and all municipalities should be required to implement these standards. Currently the government’s ARA proposals will likely intensify, not eliminate or reduce divisive land use conflicts involving new or expanded aggregate operations. These proposals need more effective tools to update and strengthen environmental measures at existing approved aggregate sites. The province must make recycled aggregate procurement policies a prerequisite for municipalities to receive infrastructure funding, decreasing the need for new sites, ensuring the environmental protection at operating sites and decrease the environmental impact of end-of-use sites.

Currently, only about 7% of aggregate used in Ontario is recycled material. By contrast, some European countries use up to 20% recycled aggregate. If Ontario could achieve such a recycling rate, we could theoretically avoid extracting up to 33 million tonnes of new aggregate per year. An increase in extraction fees will be necessary to make this happen. Stringent monitoring of Environmental Compliance Approval (ECA) is crucial and all site permits to operate must always meet the regulations and standards and those operators found not to be conforming must face punitive fines.

The Blue Mountain Watershed Trust and its members appreciate the opportunity to add our perspective to the discussions of proposed changes to the Aggregate Resources Act and related regulations.

Thank you for your time and consideration,

Brian Collingwood

Watershed Action Group, Blue Mountain Watershed Trust.

briancollingwood@rogers.com