



# Simcoe County Greenbelt Coalition

November 4, 2019

Andrew MacDonald  
Natural Resources Conservation Policy Branch  
300 Water Street  
Peterborough , ON

Submitted by email: aggregates@ontario.ca

Dear Mr. MacDonald and Review Committee,

## **RE: ERO 019-0556 Proposed Amendments to Aggregate Resources Act**

Thank you for the opportunity to comment on the proposed amendments to the Aggregate Resources Act (ERO 019-0556). Below, please find our specific comments regarding the policies proposed. In addition, we have attached our original submission on the Aggregate Review. In that submission, we expressed deep concerns about whether the regulatory changes requested by the industry, and supported by these proposed amendments, are necessary considering that the industry itself is outlining supply numbers that they have historically met. Consequently, we maintain that the sweeping changes and deregulation requests of the industry are unnecessary.

### About the Simcoe County Greenbelt Coalition

With our 35 member groups from both urban, rural and semi-urban communities, we aim to promote community development that is financially, environmentally and socially sustainable, such that it provides a net benefit to residents. A major part of this is to recognize the value that natural heritage, agriculture and water give to our communities, including the numerous benefits and co-benefits of ecosystem services. Ensuring that the people of Simcoe County, and Ontario broadly, continue to receive these benefits requires an approach to land use planning that is evidence-based, transparent and accountable to the public, and with full consideration of the long-term impacts that communities will either have to deal with or benefit from.

### Lack of Public Input regarding the Aggregate Resources Act (ARA)

One of the most troubling parts of this ERO posting is its clear display of industry demands versus community benefit and public interest. The Environmental Registry notice suggests that the ARA proposals are intended to address issues raised by aggregate industry representatives at the March 2019 "Aggregates Summit" hosted by the MNRF. It should be noted that public interest, environmental advocates and farming organizations were not invited to this summit. As a result, the policy that is being proposed is a solution to a one-sided problem.

Within Simcoe County, we have had numerous problems with aggregate sites in our communities including impacts on our groundwater resources, heavy truck traffic, excessive wear and tear on our infrastructure, reduced air quality, loss of natural heritage, all with low economic benefits to the community affected, including minimal employment. Addressing aggregate production only for the benefit of those who profit the most is lopsided, unfair and an erroneous way to develop policy that seeks to intertwine economic benefit, environmental protection and prosperous communities.

If the province is true to its stated goal of working for the people, then it would seem logical that people and communities have an equally weighted opportunity to provide feedback on changes to the ARA. We implore the province to consider a second Aggregate Summit for those who were excluded from the original Aggregate Summit, including farming organizations, rural community leaders, environmental organizations and municipalities most impacted by aggregate operations.

Moreover, there have been other bills announced that clearly involve changes to the ARA since this ERO has been made public. Does this mean that the changes that are proposed in this ERO have already been developed and implemented enough to be included into other new legislation? Are these policy proposals a foregone conclusion? The optics of this situation erodes public trust in the spirit of the ERO and the transparency of public consultations in general..

**Recommendation: Do not make any permanent changes to the ARA without further community consultation including those excluded from the Aggregate Summit.**

#### Specific Comments on Proposed Policies

- Strengthening protection of water resources

We fully support any policy that is going to better protect our water resources. Suggestions to make the application process more robust for existing operators that want to expand within the water table is welcomed, but not nearly strong enough. We maintain that extraction of aggregate should not go below the water table and this should apply to existing or new operators.

We also commend the suggestion to increase the public engagement process for proposals that may impact water resources. The province should detail this policy so that the engagement process is aligned with the United Nations Declaration of Rights for Indigenous People to ensure free, informed and prior consent with historically present and/or resident First Nations.

Allowing a municipality to officially object to the LPAT is fine, but recent changes to the LPAT will put municipalities at a disadvantage as the cost of litigation would be weighed against public health and public interest. Many rural communities do not have the financial resources to launch a robust defence of their community, nor are they able to commit the resources needed

for sometimes lengthy hearings. In Simcoe County, it was common for municipalities to avoid officially objecting, despite having concerns, due to the costs of representing the municipality.

#### **Recommendations:**

- **Consider the preservation of groundwater resources a matter of provincial interest and thereby decree that “below water table” extraction is prohibited from any expansions or new applications. Further, there should be a prohibition of aggregate operations within headwaters, significant recharge areas or highly vulnerable aquifers.**
- **Implement policies that encourage recycling of aggregate materials so there is less pressure on locating and extracting virgin aggregate.**

#### Municipal Involvement in Protecting Groundwater Resources

- 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

As outlined in the previous recommendation, preservation of our groundwater resources and its prudent management is essential as our groundwater resources are potentially threatened by changes in climate and precipitation. Municipal zoning by-laws were one way that a municipality, who is charged with providing potable water to their residents, were able to protect their groundwater resources. This proposal effectively eliminates the municipality’s ability to meet their mandate and act in the public’s best interest.

#### **Recommendation:**

- **Remove this particular proposal. Reinforce the municipality’s ability to best manage local water resources that is in the public’s best interest.**

#### Haul Routes and Permitting

- 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.

If enacted, this prohibition would apply to all pending and future licence applications. SCGC does not support this provision since road damage and wear-and-tear from high-volume truck traffic is an important consideration, particularly for residents living along haul routes and smaller municipalities with numerous aggregate operations and limited funds for road repair and maintenance.

Many of the municipalities are already facing staggering infrastructure deficits in the multiple millions of dollars. If we are to look specifically at the County's top two aggregate producers - Ramara and Oro Medonte - then it is clear that such a proposal would only worsen their infrastructure woes.

According to Ramara's Asset Management Plan (2014) 70% of its road network is in poor to critical condition while the remaining 30% is only in fair condition. The annual infrastructure deficit for the township was well over \$1 million.<sup>1</sup>

In Oro Medonte, roughly 30% of their road surfaces have zero useful life in them and almost 50% of their roads' subsurfaces are in the same condition. Annually, there is over a \$2 million deficit for road repairs and maintenance.<sup>2</sup>

Allowing existing or new licensees to avoid entering haul route agreements will only exacerbate infrastructure issues in many municipalities in Simcoe County.

**Recommendation:**

- **SCGC recommends removing this specific proposal**

Self-filing and "Streamlining" Application Processes

There are several instances within the ERO that outline a streamlining and/or self-filing for "routine" amendments, rehabilitation plans and so forth. SCGC agrees that having clarity and a streamlined process for some of these stages is warranted; however, without any detail it is hard to determine which activities would be covered under these changes. Further, SCGC maintains that if "streamlining" is used in a way to assault the integrity of the process, rehabilitation efforts, community involvement or move towards industry self-regulation, we are staunchly against such changes. Without further details, it is unclear of the government's intention in this regard.

**Recommendation: When more detail has been provided by MNR about these policies, another public consultation should be posted on the ERO so that stakeholders can weigh all of the possible implications of said "streamlining" and "self-filing".**

Other Comments:

- Fees should be increased and the fee structure should incentivize seeing aggregate use as an interim land use and expedite rehabilitation efforts.
- We support the recommendations made by Gravel Watch Ontario as per their fee restructuring for aggregate.

Bill 132 - Better for People, Smarter for Business Act (announced Oct.28)

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<sup>1</sup> Asset Management Plan (2014). Ramara Township

<sup>2</sup> Asset Management Plan (2015). Township of Oro Medonte

- Some proposals under this ERO are replicated under Bill 132 but with more substantive detail. Clearly, there has been policy work done on this proposal while the public consultation process has been ongoing. This clearly communicates to the public and interested stakeholders that the consultative process is merely window dressing.
- It seems within Bill 132 the proposals that would be put into effect include:
  - Prohibit municipal zoning bylaws to restrict depth of aggregate extraction which removes municipal powers to protect their groundwater systems
  - Allow the LPAT to disregard road degradation as an aspect of licensing which only adds to municipal liability and cost
  - And bring into force amendments made in 2017 but not proclaimed. Most of these amendments expand Ministerial power to waive or change aspects of the aggregate regulatory framework. The reason these amendments were not put into effect was that there wasn't enough regulatory detail to ensure proper use and transparency regarding increased Ministerial powers. Enacting these powers without clear regulatory direction creates opportunities for Ministerial discretion to be misapplied or abused. This proposal should be removed and no further Ministerial powers should be given in this regard until proper consultation about the associated regulations is complete.

Thank you once again for the opportunity to comment on this consultation. We would like our submission to bear the full weight of an organization that represents 35 organizations from a region that is one of Ontario's top aggregate producers. We are community members who care about sustainability, economic development and future prosperity. We do not believe these are contradictory frames; however, policy proposals such as what we have commented on above make it appear so.

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## Appendix 1 - Aggregate Review Submission Submitted in May, 2019

First, as allies of Gravel Watch Ontario and Food and Water First (NDACT), we support their submissions on this consultation. In addition, we feel there are unique concerns that our constituency has with aggregate and its potential reform, which demand a Simcoe-specific response.

With our 35 member groups from both urban, rural and semi-urban communities, we aim to promote community development that is financially, environmentally and socially sustainable, such that it provides a net benefit to residents. A major part of this is to recognize the value that natural heritage, agriculture and water give to our communities, including the numerous benefits and co-benefits of ecosystem services. Ensuring that the people of Simcoe County, and Ontario broadly, continue to receive these benefits requires an approach to land use planning that is evidence-based, transparent and accountable to the public, and with full consideration of the long-term impacts that communities will either have to deal with or benefit from.

### Aggregate in Simcoe County

Municipality (Listed Alphabetically)	2000 Production (tonnes)	2009 Production (tonnes)
Township of Adjala-Tosorontio	541 826.35	559 806.64
Town of Bradford West Gwillimbury	208 160.15	0
Township of Clearview	1 313 587.03	1 132 136.18
Township of Essa	126 619.65	48 477.23
Town of Innisfil	144 331.93	48 509.60
Midland-Penetanguishene areas	—	337 062.82
Town of New Tecumseth	70 231.20	92 152.00
Township of Oro-Medonte	1 986 819.69	2 180 602.03
Township of Ramara	2 086 360.58	1 926 109.68
Township of Severn	1 346 462.97	2 571 324.55
Township of Springwater	1 152 545.68	1 116 392.34
Township of Tay	97 213.46	138 571.68
Township of Tiny	191 118.13	309 796.13
<b>TOTAL</b>	<b>9 265 276.82</b>	<b>10 460 940.88</b>

Source: The Ontario Aggregate Resources Corporation (2009)

From 2003-2013, Simcoe County was the largest aggregate producer, by volume, in Ontario for 8 of those years. Within that time frame, Simcoe County annually produced 11.64 million tonnes of aggregate, on average. Five municipalities (Clearview, Oro Medonte, Ramara, Springwater and Severn) within the County consistently produce an excess of one million tonnes per year as seen in Table 1.

There are over 100 licensed pits and quarries within Simcoe County with a total licensed area of 3917.16 ha.<sup>3</sup> It was estimated by the Ontario Geological Survey (2013) that Simcoe has a potential unlicensed resource area of 2404 hectares for sand and gravel with roughly 237.7 million tonnes of aggregate resources. Further, the bedrock-derived aggregate resources that are currently unlicensed is a potential resource area of 27,503 hectares containing 10,928 million tonnes of aggregate resources. Together, that is roughly 30,000 hectares potentially being dedicated to aggregate extraction. Although Simcoe County is large, we must keep in mind that 30,000 hectares is roughly half the size of Lake Simcoe. Add into that the associated roads and infrastructure which aggregate operations require and clearly large swaths of land will be dominated by aggregate activity.

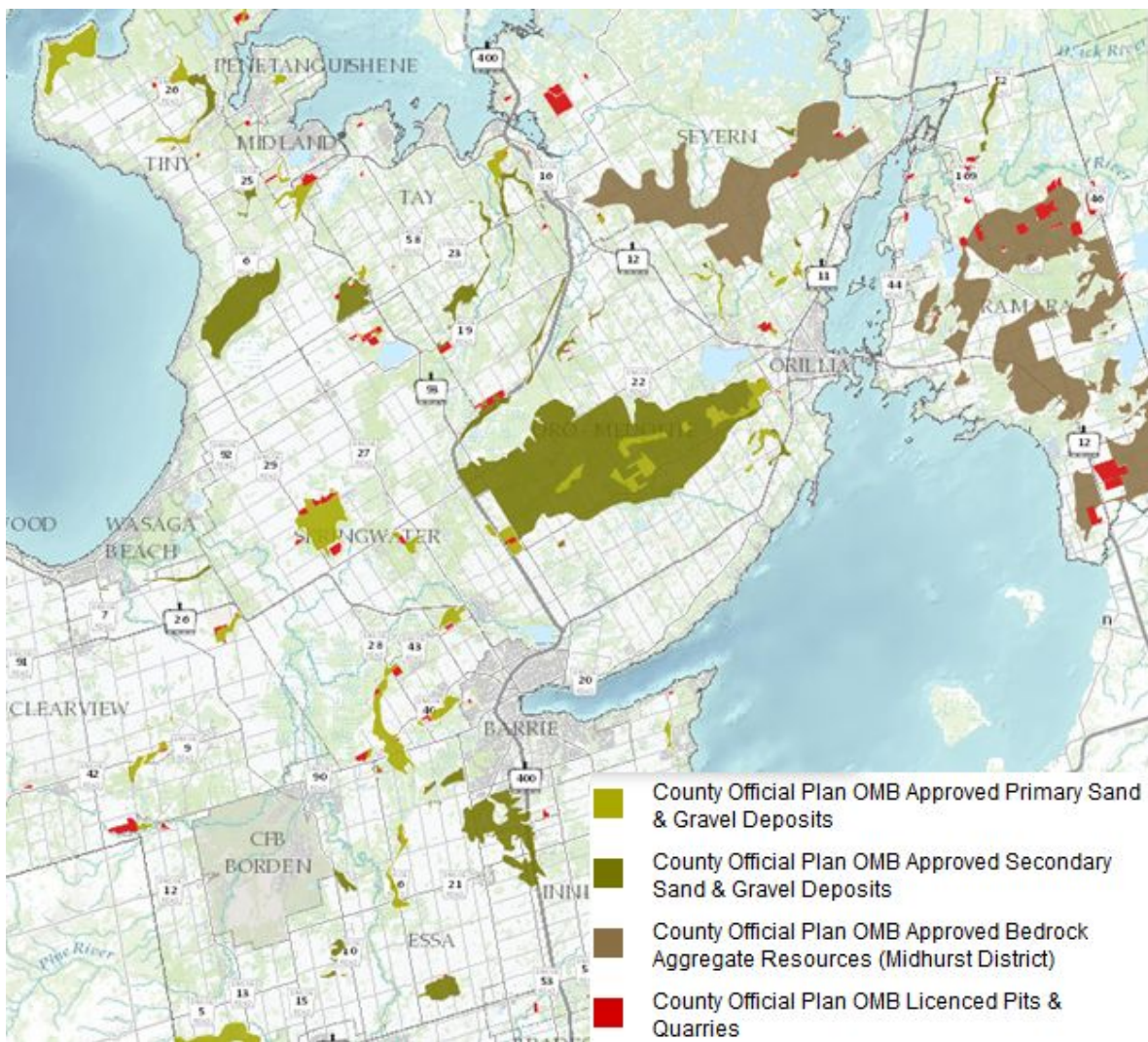


Figure 1: County of Simcoe Aggregate Resources, Pits and Quarries

Most of these deposits and resources are located in the northern part of the county. Although it is less populated than the southern part of the county, it nevertheless has important

<sup>3</sup> Ontario Geological Survey (2013). *Aggregate Resources Inventory of Simcoe County*.

infrastructure contained within it. The northern part of the county contains most of the connected forest cover, a high percentage of wetlands and many river and stream systems.

Moreover, the population in the northern part of the county is primarily serviced by groundwater wells and has a higher concentration of residents who are similarly serviced by individual private groundwater wells. Layering the sand, gravel and bedrock resources against source water protection maps shows that most of these identified resources (licensed or unlicensed) are surrounded by or contained within highly vulnerable aquifers - the source of drinking water for most of the population in that region. One of the main concerns about aggregate extraction is its effect on surface and groundwater. Extraction changes the slope of the land and water drainage patterns.<sup>4</sup> This is a permanent change. Further, aggregate resources within an aquifer store the water; if you remove the aggregate, the water storage capacity of that aquifer is lost.<sup>5</sup> A case study conducted in Minnesota found that while impacts on water were not found in every quarry and pit, declines in aquifer levels were a common occurrence.<sup>6</sup>

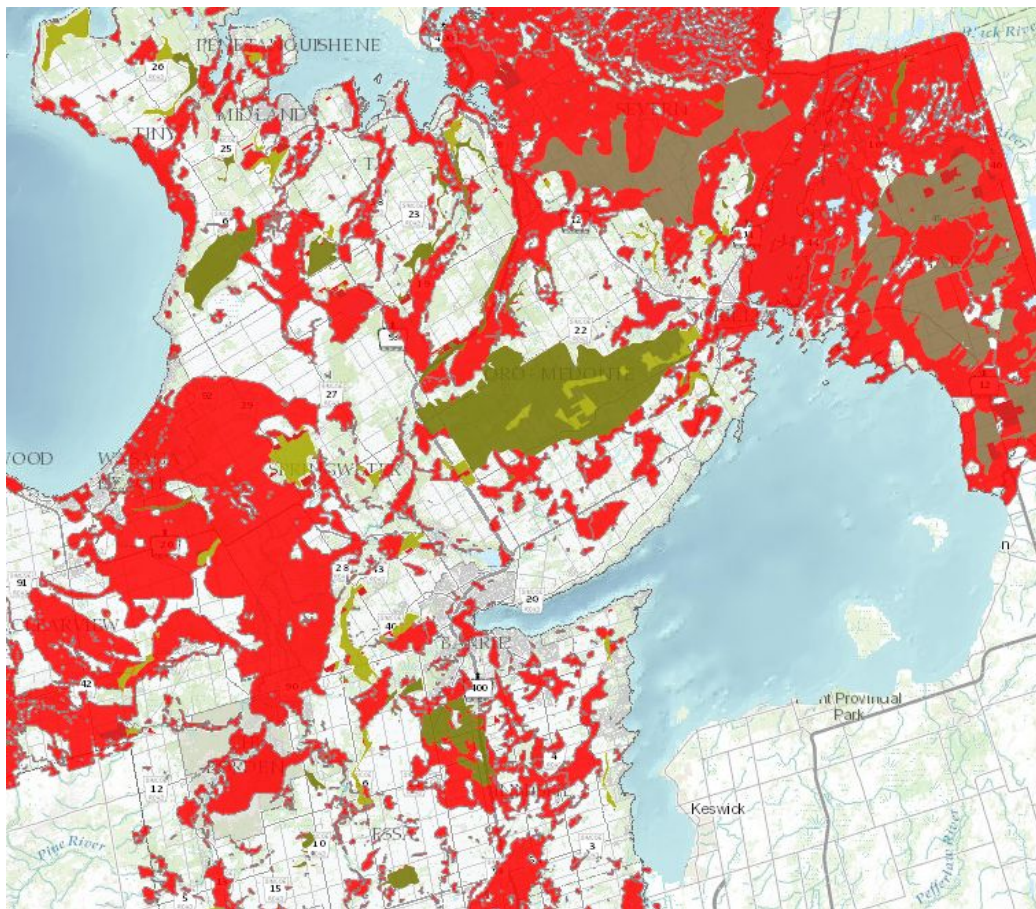


Figure 2: Aggregate Resources Layered Against Highly Vulnerable Aquifers (Red)

<sup>4</sup> Pembina Institute <https://www.pembina.org/pub/rebalancing-load>

<sup>5</sup> Ibid.

<sup>6</sup> J. A. Green et al., Hydraulic Impacts of Quarries and Gravel Pits. Minnesota Department of Natural Resources (2005). [http://www.dnr.state.mn.us/publications/waters/quarries\\_impacts.html](http://www.dnr.state.mn.us/publications/waters/quarries_impacts.html)



The aggregate industry has proposed that it be allowed to conduct operations below-the-water table anywhere, including in sensitive groundwater storage systems, even within the Oak Ridges Moraine. We submit that below-the-water table operations jeopardize water supply to municipalities that are groundwater fed as well as to private well owners who have little protection over their source water already. If anything, aggregate should be limited to operations that are only above the water table and not within identified highly vulnerable aquifers.

Farmland is also impacted by aggregate operations. The quarries and pits and their related infrastructure fragment farmland and the rural economy. As seen below, the aggregate resources identified in Simcoe County also tend to be surrounded by high class farmland. Ontario is already losing over 150 acres of farmland per day. Deregulating aggregate to get into areas that jeopardize our local food systems is short-sighted and only further stunts the economic development of rural communities.

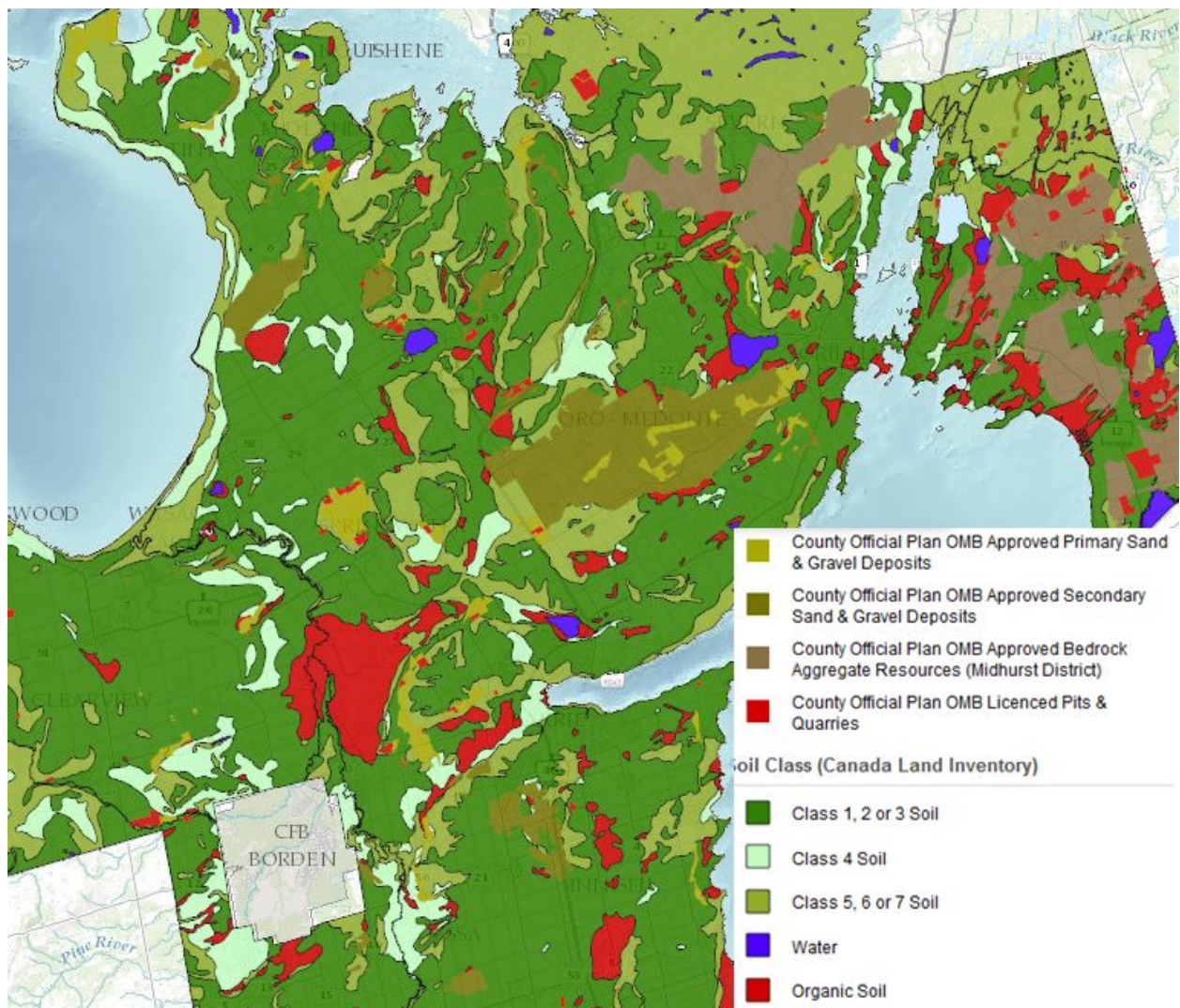


Figure 3: County of Simcoe Aggregate Resources Layered Against Soil Classes

1. *How do we reduce red tape and obstacles that impact the aggregate resource industry?*

As pointed out in Gravel Watch Ontario's submission, there has already been a multi-stakeholder consultation and policy suggestions completed around this. The concern is that moving away from agreed upon solutions proposed in 2013, towards a favoured 'open for business' approach, equates to a deregulation of the industry. In fact, the Ontario Stone, Sand and Gravel Association (OSSGA) has requested many policies which do little to address regulatory burdens and suggest less oversight including:

- Insisting municipalities have no right to set hours of operation for pits and quarries
- Allowing below-the-water table aggregate operations anywhere, including places where they are currently excluded (e.g. Oak Ridges Moraine National Linkage and Core areas)
- Allowing commercial fill to be brought in as part of the rehabilitation process – without requiring additional approvals or having to abide by current Table One soil requirements (potable/safe for drinking water)
- Exempting aggregate operations from the Endangered Species Act and from requirements to not extract in areas containing significant wetlands or woodlots
- No requirement for new studies or approvals once a licence is approved when they apply for, or amend an operational permit
- Removing the Niagara Escarpment Commission's role in approving pits and quarries
- Removing the requirement for appeals under an aggregate permit to be heard by the LPAT and creating a special tribunal specifically for the industry.
- Proclaiming permit by rule, thus allowing routine approvals to be automatic upon submission.
- Permitting aggregate extraction within endangered and threatened species habitat

The reasons that those limits are in place is to ensure a sustainable aggregate industry for all affected, most notably residents and their communities. Removing community or local government input does little to support the importance and autonomy of a community's best interest and instead clearly prioritizes the needs of aggregate above that of the community and local ecosystem.

Finally, OSSGA contends that less regulation is needed to increase supply due to a large, expected population growth. We believe that this is an intentionally misleading premise. First, the demand that OSSGA insists is there is not much more than what they already produce. OSSGA estimates 3.84 billion tonnes of aggregate will be needed by 2041. Per year that works out to 174 million tonnes of aggregate annually which is only 10 million tonnes more than their average annual production.<sup>7</sup> In some recent years, the industry has produced over 200 million tonnes of aggregate - obviously the capacity to produce more already exists.

This needed increase also assumes that demand for aggregate will not decrease or stabilize. Over 50% of aggregate in Ontario goes towards building of roads. As we continue to build our

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<sup>7</sup> OSSGA - Untangling Red Tape Report

communities up and not sprawling out, the construction of new roads and highways (which is where the majority of the aggregate goes) will mean less demand for aggregate. It is quite possible that these changes alone could mean that aggregate demand may only stabilize and hence an increase in production may not be needed at all.

The level of deregulation that the industry is requesting is equivalent to a huge boom in demand combined with a constrained supply. This is not so. From OSSGA own numbers they are able to meet demand quite well under existing regulations. A remote potential to have an increase in demand of six percent, without factoring in changing growth patterns, does not justify the policy changes they have requested.

Further, since there is a finite amount of aggregate resources there should be efforts made to reduce the demand for virgin aggregate through recycling materials. Currently, it is estimated that only seven percent of aggregate materials used in Ontario are comprised of recycled materials.<sup>8</sup> Looking at international jurisdictions and how they prioritize recycled materials demonstrates that there is ample opportunity for Ontario to improve in this regard.

Minerals planning policies in some European jurisdictions tend to favor reduced consumption of virgin aggregate and enhanced recycling.<sup>9</sup> 2006 statistics published by the Union Européenne des Producteurs de Granulats, the aggregate producers association for the European Union, indicate that in Belgium, the Netherlands and the UK, roughly 15-20% of total aggregate production was comprised of recycled materials. In particular, the UK achieved high rates of aggregate recycling. In 2006, the UK produced 58 million tonnes of recycled aggregate, which represented 21 % of overall aggregate production. Encouraging a reduced reliance on virgin aggregate would help keep the industry sustainable while still providing jobs and economic benefits and minimizing environmental impacts.

## *2. Rehabilitation: how do we ensure sustainability and stewardship?*

It must be said that, while our current economic system and building patterns require the use of aggregate, we cannot then plainly assume that aggregate is a net benefit industry. Of course, it provides jobs and economic activity, but it also must be recognized as an industry that is disruptive to both neighbouring communities and our natural world. With that in mind, the government must balance the needs for aggregate resources with the needs for sustainable practices. Currently, recognized impacts of aggregate operations demonstrate that there must be limits placed on where aggregate operations can take place. These impacts include:

- Construction of new roads, highways, bridges and dams enabled by inexpensive aggregates that can cause damage to the surrounding natural and social environment;

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<sup>8</sup> Altus Group. State of the Aggregate Resource in Ontario Study Paper 1: Aggregate Consumption and Demand. Toronto: Queens Printer for Ontario (2009), Available At: [http://www.mnr.gov.on.ca/stdprodconsume/groups/lr/@mnr/@aggregates/documents/document/stdprod\\_067712.pdf](http://www.mnr.gov.on.ca/stdprodconsume/groups/lr/@mnr/@aggregates/documents/document/stdprod_067712.pdf)

<sup>9</sup> Aggregate Extraction in Ontario: A Strategy for the Future. (2011). Canadian Institute for Environmental Law and Policy.

- Potential health issues related to poorly maintained stormwater ponds established on aggregate extraction sites;
- Decreased ecological connectivity resulting from road construction, as well as the creation of edge environments along roads that can promote increased growth of invasive and non-native species;
- Decreased biodiversity and loss of habitat associated with the construction of dams and airports; and
- Substantial loss of agricultural land to develop new extraction operations<sup>10</sup>

Environments that are particularly sensitive either ecologically or for the provision of water, air and other ecosystem services should be off limits regardless of rehabilitation requirements. As mentioned earlier, aggregate extraction below the water table permanently disrupts the function of an aquifer and thereby the provision of water to residents and ecosystems.

If the ministry is serious about rehabilitation efforts, then it must ensure that there is adequate monitoring and inspections throughout the life of the quarry or pit. Currently, MNRF aims to visit 20% of operating pits and quarries to verify compliance with standards. This number should be dramatically increased and additional inspectors/staff hired to accomplish this. Also, the rehabilitation rate of pits and quarries should be 100%. Enforceable fines should be implemented if a pit or quarry isn't rehabilitated.

### 3. *Municipal & Indigenous Communities: How can we work better together?*

First, the province must recognize the need for free, informed and prior consent with indigenous communities and their sovereign rights. The government must work with indigenous communities as nation to nation. We suggest that, within Simcoe County, all existing and historically present (e.g. Wendat, Chippewa) indigenous communities must be engaged in meaningful dialogue about what is happening on their traditional territories.

Municipal governments are vital to local democracy, so their ability to have influence in these types of decisions is paramount. Currently, there is little power afforded to a municipality when it comes to quarries. Generally, aggregate operations are promoted under provincial policies. Municipalities and by extension, their citizens, should be given more power to ensure that aggregate operations happening within their community create a net benefit.

#### In Regards to OSSGA Suggestions..

We strongly reject the following suggestions made by the OSSGA including:

- Allowing extraction from
  - Endangered species habitat including within the Greenbelt Natural Heritage System, Oak Ridges Moraine Conservation Area Core Linkages
  - Significant woodlands
  - Provincially significant wetlands and other municipally-identified wetlands

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<sup>10</sup> SAROS Paper 3: The Value of Aggregates

- Below-the-water table and other natural heritage features within the ORMCP
- ORMCP Natural Core Areas
- The province should suspend any plans to expand the Greenbelt. *If anything, considering a changing climate, increased flooding, and natural disasters, more natural areas need to be permanently protected from harmful activities.*

### Summary

The manufactured crisis of a looming aggregate shortage seems to have little evidence to support it. Even by the OSSGA's own numbers, there is an insignificant increase needed to meet forecast aggregate demands to 2041. Those forecasts also assume the demand for virgin aggregate will continue unfettered despite current changes to urban design which prioritize reusing existing infrastructure versus building new roads to support urban sprawl. Even still, the aggregate industry in some years has supplied over 200 million tonnes of aggregate (annually) in the past decade which is well above their stated need (174 million tonnes) to supply growth to 2041. Abdicating environmental and social responsibility with little evidence from the industry other than hyperbole would be irresponsible on the part of the Province.

We strongly suggest that the Province stand firm on protecting its true Provincial interest, which is the health of its current and future communities, by:

1. Standing firm on existing environmental protections afforded by the NECP, ORMCP, Greenbelt and Endangered Species Act
2. Implementing the 38 recommendations to reform the aggregate industry that were drafted in 2013 and received consensus from an all party committee
3. Not allowing below-the-water table extractions in Ontario
4. Setting a target for recycled aggregate materials of at least 20%
5. Requiring that new pit or quarry applications demonstrate a need for the additional supply
6. Moving Aggregate Planning Hearings to an LPAT Part I Hearing Type so that they may be combined with ARA Licence hearings
7. Ensuring MNRF conducts aggregate supply and consumption studies at a regional level to determine the true need for new pits/quarries or expansions
8. Expanding the Greenbelt to protect highly vulnerable aquifers and strengthen the policies to prohibit any expansions or new pit/quarry applications in Greenbelt lands
9. Introduce sunset clauses on existing aggregate licenses across Ontario, but at minimum in the Oak Ridges Moraine, Greenbelt and Niagara Escarpment

Thank you for your time and consideration,

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on behalf of the 35 member groups of the Simcoe County Greenbelt Coalition

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