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**Tuesday 17 July 2012**

**Journal  
des débats  
(Hansard)**

**Mardi 17 juillet 2012**

**Standing Committee on  
General Government**

Aggregate Resources Act review

**Comité permanent des  
affaires gouvernementales**

Examen de la Loi sur  
les ressources en agrégats

Chair: David Oraziotti  
Clerk: Sylwia Przedziecki

Président : David Oraziotti  
Greffière : Sylwia Przedziecki

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Tuesday 17 July 2012

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*The committee met at 1605 in the Radisson Hotel Sudbury, Sudbury.*

**AGGREGATE RESOURCES ACT REVIEW**

**The Acting Chair (Mr. Joe Dickson):** Good afternoon, ladies and gentlemen. Welcome to the Standing Committee on General Government, particularly, the aggregate review. We will call forward the presenters. There is a total of 15 minutes per presenter, of which the first 10 minutes is for your presentation. The last five minutes are for questions, and they will be split evenly in party rotation. You have the opportunity to answer questions from the committee. Please give your name and association when you come forward.

**SKELTON, BRUMWELL AND ASSOCIATES**

**The Acting Chair (Mr. Joe Dickson):** I would like to commence with the first presenter, from Skelton, Brumwell and Associates, Ms. Anne Guiot. I hope I pronounced that correctly. Am I close?

*Interjection.*

**The Acting Chair (Mr. Joe Dickson):** Thank you very much. Welcome. Please join us.

**Ms. Anne Guiot:** Good afternoon. My name is Anne Guiot, and I'm an aggregate resources planner with Skelton, Brumwell and Associates, a planning and engineering consulting firm in Barrie, Ontario. As a point of clarification, I'm speaking on behalf of Skelton, Brumwell and Associates this afternoon, not Miller Paving, as noted in the agenda.

I'm very pleased to have the opportunity to speak to you today. For the first five years of my career I worked for the Ministry of Natural Resources as a pit and quarry inspector, as they were called then. For the last 23 years I have worked as a consultant in the aggregate industry. I have seen the transition from the Pits and Quarries Control Act to the Aggregate Resources Act and its subsequent amendments. I was on the committee that developed the provincial standards to support the changes to the Aggregate Resources Act in 1997.

Since Skelton, Brumwell and Associates was formed in 1970, our company has assisted many small, medium- and large-sized aggregate companies in southern, eastern and central Ontario with licence applications, the prep-

aration of site plans, compliance assessment reporting and site plan amendments.

In discussing the role of the Aggregate Resources Act, it is important to understand the context of the provincial policy statement. The provincial policy statement provides policy direction on matters of provincial interest, including aggregate resources, related to land use planning and development. The provincial policy statement provides protection of long-term aggregate resource supply and stipulates: "As much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible." This close-to-market policy is appropriate, is in the public interest, and serves Ontario well. It is sound environmental practice and sound social and economic policy. Trucks travelling shorter distances past fewer people and communities just makes sense.

Policies within the provincial policy statement are clear and balanced. The siting of pits and quarries is a policy matter outside the scope of the Aggregate Resources Act and is well addressed by the provincial policy statement.

The province of Ontario regulates and controls pits and quarries. This began in 1971 with the introduction of the Pits and Quarries Control Act. The province recognized that aggregates were vital in terms of the provincial economy and that if local municipalities limited their availability, there would be negative economic consequences. This is equally the case 40 years later in 2012. Nothing has changed in this regard.

**1610**

There are three parts of the province's aggregate management structure: the Aggregate Resources Act, the aggregate resources of Ontario provincial standards and the aggregate resources program policies and procedures manual. Many of the comments that you have heard requesting changes to the ARA actually relate to the provincial standards or the policy manual rather than the act itself.

There are eight key points I would like to focus on today:

(1) How much can we recycle? Recycling, though critically important, is only part of the solution. Recyclable materials are piling up in the GTA, and there is little market for them. Municipal policy and specifications need to be modified to promote more recycling.

Licences need to be permitted to store/process recycled aggregates for future use.

(2) Where are we going to get our aggregates from? The close-to-market policy is what the industry and urban and regional planning have relied on since the 1970s. They are sound policies that work well with Ontario's varied regional availability and market demands. It does not make sense to move aggregates long distances by truck.

(3) How are we going to move aggregates? If the province wants to shift to reliance on more distant sources of aggregate, then there must be a comprehensive provincial infrastructure strategy with several ministries working together to provide for new rail systems and deepwater ports. Currently in the province, we do not have a rail and water transportation system to support a significant change in the way we move aggregates.

(4) Is the Ministry of Natural Resources aggregate resources program as supported as it needs to be? The aggregate program with MNR needs more financial resources as well as recognition and support. The ARA is a comprehensive act, and good legislation needs people and money to maximize the benefits of strong legislation for Ontario.

(5) Should site plan amendments be appealable to the Ontario Municipal Board? Suggestions are being made that ARA site plan amendments should be subject to an appeals procedure to the OMB. We recommend that this not be considered. ARA site plan amendments generally deal with routine adjustments in the operation of pits and quarries, and in some cases approvals are required quickly to address operational needs. Appeals to the OMB would add unnecessary delays to what are internal operational issues and could jeopardize the operation.

(6) What impact would sunset clauses have on licences? Sunset clauses would establish a fixed time limit on operations and rehabilitation of a pit or quarry. With the exception of a very small number of scenarios, such as a very small resource or a rescue of aggregate material before development in an urban area, we believe that sunset clauses are not good policy because the annual rate of extraction is tied to market demand and it is impossible to say when a site will be depleted. Having a defined end date could lead to premature closure of pits and quarries when there is still aggregate resource remaining to be extracted. This would require additional licensing of new reserves. Finally, leaving available, viable sand, gravel and stone in the ground represents poor resource management of a non-renewable resource.

(7) Is an environmental assessment required instead of or in addition to an ARA application? The ARA contains many of the same environmental and community requirements that are included in an environmental assessment. Reports are required, there is a requirement for public notification, consultation and an information session, and there is a requirement for attempts to resolve objections. The environmental assessment process is one that relates to public projects and provides an opportunity for expropriation of private lands. The ARA licences are on

private lands with no ability for expropriation. They are simply different legislations for different purposes.

(8) Are pits and quarries being rehabilitated? Rehabilitation is ongoing within the industry, from returning land to agriculture; to developing new land uses, such as commercial, residential and industrial areas; to creating natural habitats that never existed before—so much so, in fact, that the legacy and history of the industry is being lost. Most people do not know their local plaza, park, playground or pond was previously extracted to build the infrastructure around them. The ARA has provisions to require progressive and final rehabilitation, and establishes the enforcement abilities to make sure it happens. Additionally, the State of the Aggregate Resource study made a number of recommendations on how rehabilitation can be increased.

In closing, I would like to put forward the following recommendations for your consideration:

(1) This is an opportunity to update the approval process for the licensing of pits and quarries through revisions to the provincial standards. Goals that everyone could benefit from include increased efficiency and transparency and reduced duplication and duration. OSSGA has provided some specific recommendations for changes to the provincial standards, which we support.

(2) The ARA should be amended to automatically permit all licensed pits and quarries to import, stockpile and process recycled asphalt, concrete, glass and brick.

(3) Approvals for site plan amendments must be allowed to proceed concurrently between ministries, and be reviewed and approved in a timely fashion consistently throughout the province.

(4) An increase in the licence tonnage fee is an opportunity to provide additional funds to the province to run the program, municipalities to assist with road repair costs, and the Management of Abandoned Aggregate Properties program to rehabilitate pits and quarries that have never been licensed under the Aggregate Resources Act. However, any increase in fee must come with a requirement that the increased money will be directed to a dedicated, special-purpose account to be used for those specific purposes only. This is only fair to the industry and to the public.

(5) Considerable time, effort and money went into the State of the Aggregate Resource in Ontario Study. Recommendations provided through the six papers and the committee's summary report should all be reviewed as part of the standing committee's review of the Aggregate Resources Act. MNR should proceed with implementing these recommendations.

**The Acting Chair (Mr. Joe Dickson):** You have one half of a minute to wrap up.

**Ms. Anne Guiot:** Thank you. It is essential that the province remain responsible for regulation and control of pits and quarries. The province needs to stand behind the strong provincial legislation it has developed since 1971 and ensure that the act is implemented comprehensively to keep Ontario's aggregate resources management on

track for the short term and for future generations. The ARA is not broken, but it is time for an update.

Thank you very much for your time and interest. I'd be pleased to answer any questions you have.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much for your presentation. We'll commence the questions on my left, your right, with the Tory party.

**Ms. Sylvia Jones:** Thank you very much. We have heard consistently about close to market, but no one—I'm hoping you're going to break my spell—has been able to provide the committee with the magic number that says, "This is close to market, and this is not." What's the magic number?

**Ms. Anne Guiot:** I don't believe there is a magic number.

**Ms. Sylvia Jones:** But if it's close to market, then is that 100 km, 50 km, is that 500 km? If there is an argument for close to market, then what is close to market?

**Ms. Anne Guiot:** There are so many variables that can go into what determining close to market is. High-specification aggregate that is more difficult to find and more costly to produce will tend to travel much farther to provide materials for our asphalt highways and concrete highways, whereas local sources that are used for road repairs can come from smaller pits that just travel a few kilometres. So I don't believe that there's one magic number. We want to access available resource and use it to the best opportunity it can be made available for, as close to the source of the material and the market as possible, and I don't believe a number is associated with that.

**The Acting Chair (Mr. Joe Dickson):** I will now go to the NDP for questions.

**Ms. Sarah Campbell:** Thank you for your presentation. In your presentation, you stated that municipal policy and specifications need to be modified to promote more recycling. I think this has been an ongoing effort. I'm wondering if you think that the committee should consider going as far as mandating recycling: that a certain amount of content should be recycled depending on certain projects.

**Ms. Anne Guiot:** There's progress being made in that regard with the recycling forum of Ontario, that has been working on issues such as those. Certainly, there are areas that provide for more recycling than others, and those that don't allow or engage in much recycling could benefit from a push or a pull in that direction.

1620

**Ms. Sarah Campbell:** Can you elaborate on your statement that licences need to be permitted to store and process recycled aggregates for future use?

**Ms. Anne Guiot:** This is not a standard approval. Any site plan that a licensee operator has must have that provision included on the site plan. We've had a lot of experience with municipalities not wanting to allow for the storage and processing of recycling materials. They see it as an extra step within that—a licensed pit, when, in fact, it's using the same equipment. It could be the

same trucks, the same storage areas. It's really the best use of a facility to maximize the use of recycled materials.

**The Acting Chair (Mr. Joe Dickson):** I will now go to the Liberals.

**Mr. Mike Colle:** Thank you for the very comprehensive presentation—a lot of very sound suggestions we've heard before.

Just on the sunset clauses: Right now, if you get a licence for a pit operation, how long does that licence allow you to operate?

**Ms. Anne Guiot:** Unless there's a special provision, which is very rare, there is no termination date, if you will, on a licence.

**Mr. Mike Colle:** So you think that's reasonable; in other words, that in perpetuity, you could have an open-ended licence?

**Ms. Anne Guiot:** What I'm suggesting is, to put a termination date on a licence is unreasonable; to say, on a licence, that it could only function for a period of 10 years would be unreasonable.

**Mr. Mike Colle:** But what about a reasonable length of time, let's say 40, 50?

**Ms. Anne Guiot:** If there were provisions for reassessing that time period, the amount of material left in the ground, the progressive rehabilitation that has been ongoing, the amount of additional aggregate reserves that might be able to be licensed in adjacent lands, that would be a different scenario than establishing a "sunset clause," which, as I understand that term to mean now, is that at the end of that period, it would have to be shut down rather than it would have to be looked at or reconsidered as to the—

**Mr. Mike Colle:** So you would not be opposed to having some kind of assessment or review to see at what state the pit is at. We have a case presented to us in Brantford where it had been basically dormant for over 30 years; now, all of a sudden, it's operational again—there has been a total change in the urban land use, and the person is starting to operate again, saying, "Well, I have a licence in perpetuity, so I can extract whenever I want."

**Ms. Anne Guiot:** To me, the scenario you presented would be different than a sunset clause and is worthy of discussion.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much, Ms. Guiot—I hope I got closer the second time.

**Ms. Anne Guiot:** It's okay. Thank you.

**The Acting Chair (Mr. Joe Dickson):** Thank you for your presentation.

#### PIONEER CONSTRUCTION

**The Acting Chair (Mr. Joe Dickson):** I would like to call forward Malcolm Croskery from Pioneer Construction. Welcome, sir.

**Mr. Malcolm Croskery:** Good afternoon. Thank you for taking the time to travel to northern Ontario. My

name is Malcolm Croskery. I'm the regional manager of Pioneer Construction.

Pioneer Construction was first established in 1938. Its head office is located in Sudbury. We have offices in Thunder Bay, Kenora, Sault Ste. Marie and North Bay as well. Primarily a construction company with aggregate resources across northern Ontario, we're a vertically integrated company, from aggregate processing, asphalt plants, road construction, and our workload ranges from parking lots to \$60-million highway expansions and projects such as open-pit mining. Pioneer employs hundreds of employees, and during construction season employs substantially more.

You've heard it many times, but I wish to reinforce that aggregates are the backbone of the entire construction industry. It's pretty simple that construction just can't happen without it. Whether it's a road, building, bridge, school, hospital, it can't be done without it. In 2010, the infrastructure stimulus spending would not have been possible without aggregates.

It's important to understand that northern Ontario is unique. We have a lot of small owner-operator pits. We have pits and quarries that don't see a lot of activity, unless there's work in the given area.

This leads me to my first topic of sunset clauses. Many of our sites are strategically located in areas where demand for aggregates is very low, often sporadic, depending on projects in the area. Some of these sites do not have extraction for periods of years, and sunset clauses would simply sterilize resources at these areas. The cost to continually develop new licences would not make sense, and gravel would be required to travel great distances, costing taxpayers more while doing nothing for the environment and putting more trucks on the road. Many small municipalities already struggle with a lack of capital to repair or replace aging infrastructure. Without pits and quarries nearby, they will not be able to afford to continue.

Such clauses will promote irresponsible management of pits and quarries, which will result in high-grading of deposits, which is a method of extracting the best material and leaving less-quality material behind. This less-quality material may not be suitable for use without blending with higher-grade materials, and therefore, responsible pit operators blend materials to ensure the deposit is utilized to its fullest and do not high-grade. Given the current timeline and uncertainty of obtaining new licences, companies such as ourselves that depend on aggregates could be put into a position where we could be without aggregates, putting our entire business in jeopardy.

Moving on to aggregate levies: You've heard that aggregate levies should be increased. I don't believe it's as simple as it has been described, for the following reasons. Northern Ontario is comprised of many aggregate permits. These permits are on crown land and pay royalty to the crown of a minimum of 50 cents. An increase in the levy would sway any competitive advantage away from aggregate licences, so I believe any

change in the aggregate levy should also be applied to these permits as well. Another note for aggregate permits is, should a holder of an aggregate permit supply material to an MTO contract, the royalty is waived. An increase in the levy will, again, make the permit more attractive in many cases.

I realize there has been some discussion on the topic of aggregates that are shipped to the US. Many believe that we should not ship our aggregates out of Ontario and keep them for our own use. Northern Ontario has several docks that ship aggregate on the Great Lakes, and yes, some of the aggregate goes to the US, as you're well aware. These operations employ many hard-working northern Ontario workers. An increase in the levy will make sale to the US less competitive and could put workers' jobs at risk. I believe that exemptions on aggregate exports should be reviewed if the levy is to be increased.

There is a conflict of interest when a permit is on a mining claim, and the claim is brought to lease. The operator of this permit is not required to pay the royalty; it is deemed to be an operating mine. This has not been a major issue to date, whereas the levy is only 11.5 cents. A substantial increase in the levy would put it offside, leaving a competitive advantage to the permit holders.

We have markets where First Nations have aggregate resources. I have full respect for the First Nations, but given that their pits and quarries are not required to pay royalties or levies, an increase in the levy would result in a huge disadvantage to our operations in these areas.

If the levy increases, my questions would be, where would the additional money go, and who would be responsible to ensure that it's being used for the intended purposes?

I'll move on to recycling. Many critics to our industry believe we do not do enough to recycle. Being in the construction industry, I can assure you, when and where possible, we do recycle. Many construction products are recycled on the job, where oftentimes 100% of the original aggregates are recycled in place with technologies such as cold-in-place processing and expanded asphalt. Where it is not possible to recycle on-site or the materials do not meet the requirements, the best place to complete this action is in pits and quarries, where materials can be blended with virgin aggregates to create products as good as or better than those without recycled material.

Unfortunately, we are limited in the amount we can recycle by the consumers of our products. Aggregate Recycling Ontario, which you heard about yesterday, was introduced to help promote and educate municipalities and other consumers of aggregates to the advantages and benefits of utilizing these materials. With initiatives such as these, recycling of aggregates will continue to develop. I believe that all site plans should be amended to allow recycling as long as sufficient natural reserves are in place to substantiate it.

On to abandoned pits and quarries: As you are aware, there are currently many aggregate sites that were aban-

done prior to the first legislation in 1971 that need to be rehabilitated and are currently being managed by TOARC. Unfortunately, some operators in Ontario still do not manage their sites within the law, and their licences are sometimes revoked. These revoked sites often contain reserves that, since they are licensed, could be operated by another producer who would be willing to clean up the site and operate it properly. However, the opportunity for this to happen does not occur very often. Usually, these sites become a financial responsibility for TOARC to clean up. It seems to make sense that, if the landowners are agreeable, these licences could be made available for other pit operators to run, with the condition that they be brought back to full compliance prior to operation. These pits often have proven resources that should not be abandoned, not to mention that they can be eyesores for many years if they are not managed properly.

To recap: Sunset clauses do not promote the responsible use of aggregate resources and will sterilize proven aggregate resources. Increasing the levy will have large effects on the entire industry. Recycling needs to continue. New partnerships such as the Aggregate Recycling Ontario forum will help to educate and promote the use of recycled products.

1630

We do not believe the Aggregate Resources Act is broken, and believe, with time, like any other act, it does require a review. We hope the review is used as a tool to update the ARA by eliminating duplication of process and policy, making the application process more efficient for all parties while not losing sight of what works well.

Lastly, it is essential that the province remain responsible for regulation and control of pits and quarries. I do not believe that local municipalities have the expertise or the manpower to complete this task. The outcome would lead to major inconsistency of policy and procedures and likely result in a future shortage of aggregates.

I thank you again for your time in this matter.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much for your presentation, Mr. Croskery.

Just while I think of it, in the second and third row, if you can't hear the speaker or you can't hear me, please just raise your hand, and we'll make the appropriate adjustments.

At this time, I would like to go to the NDP, please.

**Ms. Sarah Campbell:** Thank you for your presentation.

Does your company deal with recycled material all that often?

**Mr. Malcolm Croskery:** Yes, quite often.

**Ms. Sarah Campbell:** With, probably, MTO contracts?

**Mr. Malcolm Croskery:** MTO contracts and some municipal work.

**Ms. Sarah Campbell:** Do you have an opinion about the regulations around recycled material? Do you think

that they're adequate as of now? Do you think that there need to be any changes?

**Mr. Malcolm Croskery:** Many of the municipalities use the old Ontario provincial specifications, which I think are a good product to basically allow you to use recycled materials. I don't think that we should be forced to use recycled materials because sometimes the recycled materials aren't available and sometimes it can be a competitive advantage for one person over another. I think if you use the old Ontario provincial specs, which are reviewed on a regular basis, then I think that's a good avenue.

**Mr. Michael Mantha:** I just want to clarify a comment you made: You said your recycling is restricted sometimes by consumers. Can you explain—

**Mr. Malcolm Croskery:** Well, just by the percentages, and sometimes some owners will not allow recycled materials on-site.

**Mr. Michael Mantha:** Can you explain the reasons why? Just because they just don't want the recycled—is it just as good? What is your opinion?

**Mr. Malcolm Croskery:** Lack of education. I think just with the education going forward as it is now, you'll see a change. I think there's a presumption out there that maybe recycled products aren't as good. They just have to learn that it is.

**The Acting Chair (Mr. Joe Dickson):** Mr. Croskery has allowed us extra time. We have extra questions, so I'll just go around the table to the Liberal Party, please.

**Mr. Mike Colle:** Thank you for the presentation, sir.

Are you aware of whether or not the city of Sudbury uses recycled aggregates in its road construction?

**Mr. Malcolm Croskery:** Yes, the city of Sudbury does allow—

**Mr. Mike Colle:** What percentage? Do you know?

**Mr. Malcolm Croskery:** It's as per the OPS specifications, so it would be—I won't quote them just in case I get it wrong.

**Mr. Mike Colle:** We've found out that in most municipalities in Ontario, the engineers basically refuse to use recycled aggregates in their road reconstruction, whereas MTO uses it up to 30%.

**Mr. Malcolm Croskery:** That's right.

**Mr. Mike Colle:** So I'm just wondering what Sudbury's number is.

**Mr. Malcolm Croskery:** Sudbury would be the same as the MTO. It would be 30%.

**Mr. Mike Colle:** We'll check that out.

In terms of the levy, you made a very good point. We were just up at Gore Bay, at the Lafarge site there. They ship a lot of their aggregates to Toronto, Windsor and the States, and I know they're having a hard time because 75% of their costs are shipping. So if there were a levy increase, this might really hurt their margin. Perhaps what you're telling the committee when you—and this provides jobs to the north. If we're looking at levy increases—and almost everybody agrees there should be some kind of levy modification—we should not look at it as a blanket thing, and look at the impact it might have

on the north, especially when they have to export some of those aggregates into the United States. By the way, they mentioned that we also import some aggregates from the American side at the same time.

Thank you very much for the presentation.

**The Acting Chair (Mr. Joe Dickson):** Any further questions?

I would like to go to the Tories, please. You have an extra couple of minutes.

**Mr. Victor Fedeli:** Good day. My name is Victor Fedeli, the MPP from Nipissing.

At the end of your presentation, you talked about simplifying processes. If you had an opportunity to change some of the red tape that was attached, which would your first one or two areas of concern be?

**Mr. Malcolm Croskery:** I can't speak 100% to it because I don't go through the process on a regular basis; we have people who do. However, the period of time for consultation etc. just seems to be driven on too long, and there always seems to be something new that comes around the corner, be it another species at risk or something else which further complicates the matters, and then brings the timeline further ahead. So I think the whole timing of the consultation period would be one of the things. There are other experts around that could better answer the question, for sure.

**The Acting Chair (Mr. Joe Dickson):** Further?

**Ms. Laurie Scott:** Sure. I'll share the mike. Thank you very much for presenting here today. We all want to ask you questions. The crown land you brought up—I just wondered if you could explain that a little bit more, and the levies, because I have some crown land quarries and pits, but a lot of people don't.

**Mr. Malcolm Croskery:** So on crown land, they pay a royalty; they don't pay the aggregate levy. My understanding is—and I haven't read it, but my understanding is that that just goes to the general coffers and doesn't actually go to the same purpose as the 11.5 cents. So that's at a minimum of 50 cents, and I believe we have operations that are close to 80 cents, but it's on crown land, so it should really not have a competitive advantage against an owned piece of property that's paying the levy.

**Ms. Laurie Scott:** My riding is Haliburton–Kawartha Lakes–Brock, and so in the Galway–Cavendish and Harvey part I do have some of them on crown land, and the municipalities, of course—they use their roads, but they don't get any of the levies. I kind of wanted to highlight that because it's a fact that we may need to look into when we go further. So we've heard a lot about—a dollar is what some presenters have said, about a dollar a tonne. What do you think about that?

**Mr. Malcolm Croskery:** I think that a review should be made to understand where the money is going and what the amount has to be. I don't think that I can speak to exactly what it is. A dollar, to me, seems high. Depending on how it was administered, it would definitely create problems in some of our areas.

**Ms. Laurie Scott:** Yes, because in southern Ontario it's a problem for our roads and bridges and stuff, and municipalities aren't getting enough to do that. But I do like—

**Mr. Malcolm Croskery:** But the freight haulers and everybody else don't pay the municipality for hauling the material through their roads.

**Ms. Laurie Scott:** True. Any kind of recommendation, anything—northern, southern Ontario, uses? Not now, but—

**Mr. Malcolm Croskery:** Well, the geographical location, you could do it separately. It's just a suggestion.

**Ms. Laurie Scott:** We're looking for suggestions, so I just thought I'd bring that up. Thank you so much.

Do we have any more time there, Chair, or are we good?

**The Acting Chair (Mr. Joe Dickson):** You have time for one quick question.

**Ms. Sylvia Jones:** Can I bring the other presenter back? No, I'm kidding.

**Mr. Mike Colle:** Mr. Chair, I just had a request that we find out what percentage of recycled aggregates the city of Sudbury uses in its road construction program.

**The Acting Chair (Mr. Joe Dickson):** We do have a note of that, sir. Thank you very much for your presentation, Mr. Croskery. Well done.

**Mr. Malcolm Croskery:** Thank you.

#### ROCK LAKE PROPERTY OWNERS ASSOCIATION

**The Acting Chair (Mr. Joe Dickson):** I would now like to invite James Gomm, president, Rock Lake Property Owners Association. Welcome. Good afternoon, James.

**Mr. Jim Gomm:** Jim will be fine.

**The Acting Chair (Mr. Joe Dickson):** Jim? Okay, sir.

**Mr. Jim Gomm:** Now for something slightly different. We're talking about a different side of this equation today. My name is Jim Gomm. I'm the president of the Rock Lake Property Owners Association. Rock Lake is a recreational lake approximately 45 kilometres south of Sudbury. There are seasonal and recreational residences on the lake.

First of all, I would like to thank the committee for providing the opportunity to present our concerns and recommendations regarding the Aggregate Resources Act.

Our involvement with the Aggregate Resources Act has not been a positive experience. The principal areas of the Aggregate Resources Act that I would like to focus on today are notification, public consultation and information-sharing. I would like to present two examples that clearly show our concerns with the notification restrictions, the public consultation restrictions and information-sharing under the Aggregate Resources Act.

In our first example, in June-July 2010, our association became aware of an approved quarry at the north end of Rock Lake. Our research showed that this quarry is identified as MTO aggregate permit 402032. We contacted the MTO in North Bay and asked about this quarry, the approval process, notification and public consultation. The response that we received from the MTO was: The quarry had been approved by MTO in 2007; MTO aggregate extraction is covered under the group D activities in the MTO class environmental assessment for transportation facilities; under the ARA, only property owners within 120 metres were required to be notified; there was no requirement to place the application on the Environmental Registry due to the class EA exemption; the quarry application was subjected to its own environmental assessment, which was separate from the four-laning project that was going on adjacent to it.

#### 1640

This quarry was established within 150 metres of Rock Lake, a recreational lake with seasonal and permanent residences. The quarry site was adjacent to a spawning ground for sport fish. The quarry operations would include stripping overburden, drilling, blasting, crushing, screening, hauling and the heavy equipment to conduct this type of work.

We asked the MTO to provide the rationale for this quarry, a copy of the application, site plans and technical reports. The MTO provided the copies at a cost to our association of approximately \$105.

We asked if this quarry was required for the Highway 69 realignment and four-laning project. If so, why was this quarry information not presented at the several Highway 69 public information centres that our association attended? The MTO response was that it was not part of the Highway 69 project. We found out later that this quarry was indeed offered to the successful contractor on the Highway 69 project.

We inquired if the MTO had done a project category and screening process for this project. The MTO response was, "Since these non-commercial pits and quarries do not fall under the MNR class EA process, the MTO did not complete a project category and screening process."

We asked the MTO why they had notified agencies over a hundred kilometres from the site for comments, but refused to contact the grievously impacted property owners adjacent to the quarry site. We never did receive an adequate response from the MTO.

Section 9.2 of the document Transportation Engineering and Environmental Protection for Group D Activities states: "Recent amendments to the act have ... required increased public notification and consultation for aggregate permits and wayside pits."

It is the contention of our association that the MTO used the restrictive notification and consultation measures of the Aggregate Resources Act and their class EA exemption to limit our opportunity to provide comments, concerns and objections to this quarry. We

feel that our rights under numerous acts, the MTO Statement of Environmental Values, MTO protocols, guidelines etc. were not respected or protected.

The second example occurred during the spring of 2010. In this case, members of our association observed test drilling being done adjacent to Rock Lake on a cottage access road. We contacted the local Ministry of Natural Resources and inquired what was going on. They did not provide any positive response.

In early June, our association received a copy of an aggregate quarry application from a local contractor. This package contained a copy of the application, a copy of the site plans and a series of blank sheets of paper referring to technical reports. The application and site plans indicated that the proponent was planning to establish an aggregate quarry within 400 metres of Rock Lake. The proposal was for the stripping, drilling, blasting, screening, crushing etc. of up to one million tonnes of aggregate annually. Also, the proponent requested approval for a portable cement plant and an asphalt plant at the site. The site plan listed numerous pieces of heavy equipment that would be required at the site.

Our association contacted the proponent's consultant and requested a complete set of technical reports and inquired if the proponent would be notifying the property owners and stakeholders in the area. The response from the proponent was, "Not at this time." We asked if there would be a public information session and if the proponent had developed a communications plan. The response we received was that under the Aggregate Resources Act, the proponent only had to contact landowners within 120 metres of the quarry boundary.

Section 4.1 of the Aggregate Resources Act provincial standards states: "If significant environmental impacts are recognized by the Ministry of Natural Resources, then additional consultation may be required"—an example would be newspaper ads, open houses etc.—"as per exemption 26/7 of the Environmental Assessment Act." Surely, a quarry of this magnitude that would result in environmental degradation, noise, dust, health and safety concerns, toxic fumes etc. would warrant a more comprehensive notification and public consultation process.

Initially, we were given 20 days to respond with any concerns, a time frame that was then raised to 30 days under the EAA requirements. The restrictive notification and lack of consultation by the proponent was very disappointing to our association.

In July, we contacted the MNR requesting an extension of 90 days to give adequate time for our association to contact all the stakeholders in the area, get expert advice, review the documents, provide our concerns. Our request was denied by the MNR.

The proponent then had six months to respond to our concerns and objections. During the next six months, our association heard very little from the proponent.

In January 2011, we received a letter stating that the proponent could not address our objections and concerns

because our letters of objection did not have enough information; some letters appeared to be form letters etc. They also indicated that the MNR had granted an extension until April 1, 2011, for the proponent to submit his final package. The MNR's rationale given for the extension was in order for the proponent to have more time to get additional professional advice and to develop their final package to the MNR. This letter also indicated that if we had any further objections and recommendations, that they must be sent by registered mail or personally delivered by February 14, 2011. It also stated that only letters that met the standard would be considered.

During the past two years, the proponent and the MNR have met to review the application and mitigation measures. The site plans, technical reports and applications have been amended numerous times. Our association has requested current information since the beginning of this flawed process. In an attempt to obtain this information, our association was required to submit a freedom-of-information request. The MNR still refuses to provide all of the requested documents.

I would like to provide a quote from Mr. Gord Miller, Environmental Commissioner for Ontario. On March 28, 2011, Mr. Miller posted the following: "I am frequently struck by the seeming inability of the ministries I oversee to understand the minimal public consultation system set out in the Environmental Bill of Rights...."

Later in the article, Mr. Miller concludes, "There was a time ... when government ministries made decisions for the good of the province without public participation, because they thought they 'knew best.' And maybe they did. These are not those times. These are times when government action relating to the environment can have serious and widespread consequences. And these are times when people want and expect to be informed of and engaged in such decision-making. Frustrating these desires is ill-conceived, unwise and contrary to the law."

**The Acting Chair (Mr. Joe Dickson):** You have 30 seconds, sir. If you do go over, it will just shorten the questions.

**Mr. Jim Gomm:** That's fine. In our opinion, a provincial act that allows for the type of development we have described adjacent to a recreational lake with a minimum requirement for public notification, consultation and information-sharing, is in desperate need of amending.

In conclusion, we feel that under the present ARA and provincial standards, the inherent rights of the people of Ontario are not being protected and respected. We offer the following recommendations:

(1) That the specified distance of 120 meters for notification and consultation to property owners and stakeholders regarding quarry applications must be increased to ensure that all affected parties are included in the application review process.

(2) That the ARA and provincial standards be amended to ensure that a more comprehensive process

for public notification, consultation and information-sharing is clearly outlined and required in the act.

(3) Finally, that the purpose, vision and application, as outlined in the statement of environmental values for the Ministry of Natural Resources, must be adhered to and incorporated into the amended ARA and provincial standards.

Thank you for your time and attention.

**1650**

**The Acting Chair (Mr. Joe Dickson):** Thank you for your presentation, Mr. Gomm.

We have just under four minutes, and I would commence with the Liberal Party.

**Mr. Mike Colle:** As a layperson, Mr. Gomm, you've done a great bit of work here. I think the committee thanks you for the work you and your association have done, and I think you've made some very sound recommendations here. I guess the first one is that any group D activities by MTO should also require a notification period of surrounding residents and it shouldn't be exempt.

**Mr. Jim Gomm:** We were very disappointed to find out that they did not have—

**Mr. Mike Colle:** —a requirement to do that, yes. That's one thing we'll certainly look at: to see if they should be required to notify residents.

The other recommendation is also one that has come up before, and that is that 120 metres seems to be very limited; that obviously we should look at extending that to a considerable amount of distance so that the surrounding neighbours can be made aware of the impending application.

**Mr. Jim Gomm:** That is a very, very restricted distance.

**Mr. Mike Colle:** Yes, it seems to be a very short distance—

**The Acting Chair (Mr. Joe Dickson):** Thank you. I will now go to the Tory party.

**Mr. Michael Harris:** Jim, thank you for your presentation. My riding is Kitchener-Conestoga, and last week in Kitchener we heard from many of the resident groups up that way.

I notice here in recommendation number two, you're calling for a more comprehensive public process for notification, consultation and information-sharing. Do you have any details in terms of what you'd like to see pertaining to that specifically? Is there a concern around that?

**Mr. Jim Gomm:** We're not sure that we would have ever known about either one of these quarries if we hadn't made the inquiry. I guess—

**Mr. Michael Harris:** Longer notification periods—

**Mr. Jim Gomm:** I would think that the net has to be cast wider. I think the only people that they contacted was our association, and that's only because we notified them. They never dealt with any of the other stakeholders that may have had an interest in that area.

**Mr. Michael Harris:** Also, this pit application: Who was it actually in the name of? Was it the successful contractor of the highway project—

**Mr. Jim Gomm:** No, MTO. And then they offered it under the contract.

**Mr. Michael Harris:** Was that initially crown land to begin with?

**Mr. Jim Gomm:** I believe it was, yes.

**Mr. Michael Harris:** So the licensee is now the successful bidder of that highway project?

**Mr. Jim Gomm:** No, it's still retained by MTO.

**The Acting Chair (Mr. Joe Dickson):** We will now go to the NDP.

**Ms. Sarah Campbell:** Thank you very much for your presentation. I have a few questions, so I'll try to whip through them fairly quickly.

I wanted you to elaborate a little bit on your recommendation number one. You were stating that 120 metres of notification area is not adequate. What do you think is appropriate?

**Mr. Jim Gomm:** I was asked this question by MTO. I said, "Well, let me explain it to you this way: You talked to somebody 100 kilometres away and asked for their opinion, and you didn't ask somebody a kilometre away."

As somebody mentioned earlier—can I give you a specific thing? I would think that each case, depending on its complexity, would require some kind of a sliding scale. Obviously, to take out a million tonnes and not talk to anybody outside of 120 metres is not adequate—so, a sliding scale.

**Ms. Sarah Campbell:** Actually, you raised that point that I wanted to ask too. You said that agencies over 100 kilometres away were contacted for their comments. Can you elaborate? Which kinds of agencies?

**Mr. Jim Gomm:** First Nations, federal, MOE, municipalities, those types of ones.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much for your presentation, Mr. Gomm.

#### ETHIER SAND AND GRAVEL LTD.

**The Acting Chair (Mr. Joe Dickson):** I would now like to go to Ethier Sand and Gravel. I have two gentlemen: Marcel Ethier and Mark Zinn. Welcome, gentlemen. You may start any time you wish.

**Mr. Marcel Ethier:** Good afternoon. My name is Marcel Ethier. I am pleased to be before you today. I am the president of Ethier Sand and Gravel Ltd. in Sudbury. At the age of 24, I took over the company started by my father and have been in the aggregate business ever since.

Compared to some of the large producers in southern Ontario, we would be considered a small producer of aggregates. It is my concern that the results of the ARA review process that is being undertaken will make it more difficult, if not impossible, for the small producers to survive. We supply aggregates to consumers, construction contractors and the mining industry. These projects include the new hospitals, schools, roads,

bridges, water and sewer systems, housing, mining development and production of products for the manufacturing of concrete and asphalt.

The aggregate industry today is being portrayed by critics as it was 50 years ago. This is not the case. Today, producers are community-oriented, environmentally aware, and they go out of their way to be good neighbours. Producers are innovators in terms of minimizing impacts and implementing new and existing rehabilitation plans that provide lasting community benefits. Producers do not walk away from their responsibilities. They are good land stewards.

I am not opposed to the review of the Aggregate Resources Act. I believe that the act has served the provincial interest well since its inception in 1997. I believe that this review can serve to streamline the application process and enhance the operational compliance of existing sites. However, I am also aware that this review has the potential to undermine the economic health of this province. I am comfortable that this committee is dedicated to finding balance in an extremely complex issue, and I can ask no more than that.

The ARA consultation process is set out in the provincial standards. It is proponent-driven. It has inherent requirements for public input, including public meetings, and obligates the proponents to respond to every expression of concern or objection in an attempt to address the issues. This has proven to be a lengthy but generally workable process. However, the process could be fine-tuned and could be made more efficient. We are open to changes that bring clarity, efficiency, more public input and opportunity for the development of good ideas surrounding individual applications. I believe that the licensing procedure has become too confusing, complex and onerous for opponents, proponents and other community members interested in following an application through the process. People lose faith in the process when it becomes too complex.

In addition, there is substantial uncertainty, time and cost to license new facilities for both aggregate producers and local communities. The ARA review should focus on making the pit and quarry approval process more transparent and efficient. This will benefit not only the producers but also the host community and concerned neighbours.

There has been a suggestion that sunset clauses be added as a licence condition. This would establish a fixed time limit on operation and rehabilitation of a pit or quarry. There are many reasons that these sunset clauses are bad policy. The annual rate of extraction within any pit or quarry is directly tied to market demand. It is impossible to say with certainty when an aggregate deposit will be depleted, and that could lead to premature closure of pits and quarries when there is still aggregate resource remaining to be extracted. I am certain that even in the north, the premature closure of an aggregate facility will increase pressure to license new pits and quarries elsewhere.

Here in northern Ontario, it is not uncommon for pits and quarries to only operate every two or three years, based on local infrastructure and development. Having time frames on licences will significantly change the businesses of aggregate producers in the north, including mine.

Having a defined end date will prevent consideration of logical expansions of existing pits and quarries. The advantage of an expansion is that there is already existing infrastructure to serve the aggregate operation, particularly its haul routes.

It has also been recommended that the province substantially increase the aggregate levy in order to increase funding to the MNR aggregates program, local municipalities and the Ontario Aggregate Resources Corporation. I am not opposed to an increased levy if the funds are directed appropriately; however, this increase will create an inherent inequity across the north. The levy, as it stands now, only applies to licensed pits and quarries. The licensing only applies to privately owned property. In northern Ontario, much of the land used for aggregate production is crown land and therefore requires an aggregate permit only to operate.

**1700**

Currently, there is a royalty fee for extraction from crown land, but the levy does not apply. A substantial increase in the levy will create an inequity between the fees charged for extraction from privately owned land and extraction from crown land. The royalty fee collected from crown land is paid to the province only, and as a result, the local municipalities and TOARC do not receive any funding from crown land extraction. We would ask the committee to consider equalizing the levy fees applied to crown land and private land, and ensure that northern municipalities are also part of this compensation, as are the municipalities in the south.

Another inequity specific to northern Ontario concerns aggregate extraction and sales from crown land that has been brought to lease under the Mining Act. The regulatory process to prepare a piece of crown land for mining metallic minerals under the Mining Act is different than a process to prepare a piece of crown land for aggregate extraction. If the crown land has been brought to lease under the Mining Act, first, aggregates may be sold from their property free of royalty and levy. This overlap is known to both government ministries that administer these two acts, and while it is not occurring everywhere, it is a source of concern for our company and the Ontario Stone, Sand and Gravel Association. If the levy is significantly increased, this inequity between crown land operations and those on private land will be substantial.

We ask the committee to consider removing this overlap between acts and ensure that the aggregate levy applies to all crown land, regardless of the status under the Mining Act. This is an easily accomplished administrative change that we would ask the committee to consider. We would be happy to provide additional doc-

umentation on this particular issue to provide more details.

I understand that the task before you is not an easy one. You have and will continue to have input from a huge variety of interests. All I can ask is that in your deliberations, you don't lose sight of the needs of the smaller aggregate operators and what we individually and collectively contribute to the economy of Ontario. In your deliberations, the concerns of northern Ontario should not be forgotten.

Thank you for your time.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much, Mr. Ethier. I will now go to the Tory party for questions, please.

**Mr. Michael Harris:** We understand there are about 700 permits in Ontario on crown land held by the MTO. A simple question: Do you think the MTO should be in the aggregate business?

**Mr. Marcel Ethier:** No, not really. But they save money, especially when they build highways. It's a cost savings to them. Being in the aggregate business, I would say no, but it's common sense.

**The Acting Chair (Mr. Joe Dickson):** Second follow-up?

**Ms. Sylvia Jones:** My question relates to sunset clauses. I understand why there are challenges with sunset clauses. Having said that, I do have some sympathy for the adjacent landowners who have no definitive end timeline. Is there another option, other than sunset clauses? Perhaps a minimum extraction must occur on an annual basis. Basically, you would be keeping the pit active as opposed to sitting on a licence.

**Mr. Marcel Ethier:** I don't know; it all depends on the market. If there's nothing going on a few kilometres from your gravel pits, who do you sell it to? We have a few that we don't operate very often because there's no demand there or somebody is a little closer than you are. It all depends on the market. Especially up north, there's not that much population; they're far apart. Some of the gravel pits that we have are alkaline-free for concrete—but they [*inaudible*] and they mine them now out of our quarry. So it sort of put us out of the market for now.

It's pretty hard to put a timeline on your extraction. I know what you're saying.

**Ms. Sylvia Jones:** Yes, well, we talk about interim use, but then we don't say what the interim is.

**Mr. Marcel Ethier:** Yes. If I could tell you how much—if I could deplete it in two years I'd be happy.

**Ms. Sylvia Jones:** Sure. Okay, thank you.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much for the questions. I will now go to the NDP.

**Ms. Sarah Campbell:** Thank you for your presentation. I'm wondering if you have some ideas about what we can do to streamline the process to get rid of some of that complexity and confusion that you were talking about.

**Mr. Marcel Ethier:** Well, there is so much—maybe you can answer that, Mark.

**Mr. Mark Zinn:** Marcel has been in the industry for 50 years and I've been in it myself for almost 30. It's so complex and there are so many overlapping regulations—I think there's over 25 provincial and federal regulations that apply—that it just gets very confusing, especially for small operators like ourselves. We almost need to hire consultants or rely on the OSSGA a lot to guide us through the procedure. If you just streamline it—if it's that difficult for us to understand and we've been in the business for 30 years almost, it's going to be very hard for the general public to understand. It's just a lot of overlapping procedures that are in place.

**Mr. Marcel Ethier:** Overlapping between governments.

**Ms. Sarah Campbell:** Some area residents, as you just heard, are calling for increased notification windows so they can have greater participation before a pit or a quarry opens up. Is that something that you would support, if we were able to streamline the process?

**Mr. Marcel Ethier:** Yes, I would support that. I think that was MTO—MTO figures they create their own rules; they do their own thing and they think they have the right, and they're another government. We have to notify all the neighbours, we have to put it on paper; we cannot get away with what they do.

**Mr. Mark Zinn:** We live in the community that we operate in, and it's a smaller community, so we want to be good stewards, we want to be good neighbours. So that consultation process is important to us because we want to know any problems before they come up when we start operating a gravel operation.

**The Acting Chair (Mr. Joe Dickson):** Thank you for your questions. I will now go to the Liberal Party.

**Mr. Mike Colle:** Again, thank you very much, Marcel. A very grounded presentation.

I guess the good thing that you pointed out to us is, again, looking at the levies and, as they might discriminate against operators on crown land as opposed to private land, we should be very careful to level that playing field if there are any changes. I think that's what you said.

**Mr. Marcel Ethier:** What's your question? Oh, I'm saying yes. The crown land, they don't pay any levy. So if you put a levy—

**Mr. Mike Colle:** On the private.

**Mr. Marcel Ethier:** —on a private of a dollar, then that means that our neighbour which is on crown land has a dollar advantage over us.

**Mr. Mike Colle:** I think you made that clear.

The other point is about MTO. It's my understanding that basically that's been going on for generations. Where MTO is rebuilding a road and there might be an aggregate source available right beside where the construction is, MTO traditionally has extracted some of the aggregates from the nearby pits so they don't have to be trucking aggregates from way across the county to do that road construction.

**Mr. Marcel Ethier:** Yes, that's right. It used to be called before—they had a wayside permit.

**Mr. Mike Colle:** The wayside program, yes.

I don't think you're saying we should do away with the wayside program.

**Mr. Marcel Ethier:** Well, for me, it competes against us, against operators. I want to be fair about it. It has been there forever and I think it'll be tough to change that.

**Mr. Mike Colle:** Okay. And the other thing that you mentioned is that you said it's a lengthy, unworkable process, and it takes up to 10 years in some cases. Perhaps one of the things the committee is looking at is maybe front-loading some of the processes so that you don't spend forever getting an approval. Especially when you've got a small application, you can't have a one-size-fits-all where you're asking a small operator like you to go through 10 years, when you're asking for the big guy to go through something—you're saying we've got to find a way of streamlining, especially for the small operators and a small application.

**Mr. Marcel Ethier:** That's right, because a smaller operator would never be able to—it's almost impossible for them to get a licence because, like you're saying, it's too complicated.

And you're right. There's a difference between a small operator—and it all depends where you are, also. If you're in southern Ontario, the neighbours are close; here in the north, they're not, but we still have to go through the same process that they do in southern Ontario.

1710

**Mr. Mike Colle:** So geography does make a difference too, yes.

**Mr. Marcel Ethier:** Oh, big time; yes.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much for your presentation, Mr. Ethier and Mr. Zinn. Well done, gentlemen.

#### BERNT GILBERTSON ENTERPRISES

**The Acting Chair (Mr. Joe Dickson):** I would now like to call forward Gilbertson Enterprises: Calvin Gilbertson, Scott Eddy. Welcome. Looks like we have two wrapped into one.

**Mr. Calvin Gilbertson:** One.

**The Acting Chair (Mr. Joe Dickson):** Your name, sir?

**Mr. Calvin Gilbertson:** Calvin Gilbertson.

**The Acting Chair (Mr. Joe Dickson):** Thank you, sir.

**Mr. Calvin Gilbertson:** I think Scott planned to be out of town; he just didn't tell me. He's out in Calgary.

My name is Calvin Gilbertson. I'm vice-president of Bernt Gilbertson Enterprises, based on St. Joseph Island, near Sault Ste Marie. We're a family business started over 60 years ago by my grandfather as a logging business, which today has grown into a business supplying high-quality aggregate products to municipalities, the

Ministry of Transportation and private concrete, asphalt and construction companies throughout northern Ontario.

Our work area in northern Ontario covers over 1,500 kilometres on the Highway 17 and the Highway 11 corridors, from Sudbury in the east to the Manitoba border in the west, working at all points in between. Our work area includes such remote points in the north, communities such as Armstrong, Pickle Lake, Musselwhite, Windigo Lake, Red Lake, Ear Falls, Whitedog, Pikangikum, Sioux Lookout, just to mention a few—and I hope you know where those are, because I've been to every one.

*Interjection.*

**Mr. Calvin Gilbertson:** Yes, that's good.

I'd like to touch on just a couple of points. I think we're going to have lots of time for questions.

Close to market: Because of the vast distances covered to construct or rebuild highways and roads, it is important for the raw product required to be as close as possible to the project. This makes sense for several reasons. It keeps costs lower for government and the private sector when supplying and installing product. Short-distance hauling consumes less energy per project, which is better for the environment—like fuel, a non-renewable resource. If we have to haul it farther, we have to burn a lot more fuel. Trucks average about five miles to the gallon. Unnecessary long-distance hauling causes increased burden on highways, roads and bridges, as well as the increased equipment and maintenance repair costs. The use of area pits and quarries benefits local employment in industries such as motels, restaurants and service stations. The most dangerous thing that we do when we go out to work today is drive on our highways. So the closer we can keep the product to the job, the better off we are.

The sunset clauses on pits—I don't agree with that at all, because in the north we need those pits available at a moment's notice. We work mostly for the MTO in the north, and they have hundreds of pits that are available. We don't have to go through the licensing process. They already have them. Some of them that we're into are probably 30 years old. They haven't been used. We'll open them up. The permits are already done. We clean them up and start extracting sand, gravel—whatever—for the highway maintenance.

Myself, I do mostly sand—fill the domes for the sanding of the roads. I left my crew in Wawa today to come down here. That's a six-hour drive. Now, this is what we call just entering northern Ontario here. So, from here to the border, you've got another 16-hour drive, and we have put sand up right to the border. From Sudbury to the border, it'd probably take you about four months to do that. So, sunset clauses on pits, that's just kind of a recipe for disaster.

And—I wish Scott was here.

In closing, it's my opinion that the Aggregate Resources Act is not broken. It is social and environmental legislation that works. After reading the transcripts from the hearings in other locations, it's

apparent that we're here today because of the issues involving opposition to one application in southern Ontario. It seems to be a GTA concern. What is necessary in the south may not be necessary in the north.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much, sir. I would now turn to the NDP for questions.

**Ms. Sarah Campbell:** Thank you for your presentation. I am acutely aware of many of the communities that you mentioned because everything from Pickle Lake going west is all in my riding of Kenora–Rainy River, so I understand the geography well. It's interesting when you tell people that here in Sudbury they're closer to Toronto than we are in the northwest to Sudbury, so we're that far removed. Thank you for that.

I wanted to talk to you a little bit about the sunset clauses. I think part of the reason why this issue has come up is primarily because people living in residential areas in southern Ontario have concerns that there can be a pit or a quarry that can be dormant for, say, 40 years, and then it can start up again. One of the things that we may want to consider is possibly having some kind of a northern exemption from that, if we were to look at that, to recognize the market fluctuations, the needs, the vast geography.

Is that something that you would support? Maybe not necessarily sunset clauses, but something to make sure that the pits and quarries really are interim uses of land and not just a means to kind of have an end run around the rehabilitation requirements.

**Mr. Calvin Gilbertson:** If it doesn't affect the north, fine.

**Ms. Sarah Campbell:** Thanks. That's pretty much all I had.

**The Acting Chair (Mr. Joe Dickson):** Go ahead.

**Mr. Michael Mantha:** Again, understanding the travel, I just did six hours of travelling myself to get here today. I was talking to one of the committee members here: Where he can do his riding in a 10-minute bike ride, it takes me 16 hours to get from one end to the other, so I appreciate the travel that you've done.

My question, again, is on the sunset clause and understanding how the dynamics here in northern Ontario are and how we use our pits. Would the use of a pit which would be geared specifically towards how you're using it, for municipal projects, small projects, interim—you're in for 30 days, it's shut for three years; or you're in for four months and it's down—versus where you have a large pit, a large use, where you have large capital projects that are coming out of it. Would that be something that would accommodate your needs as far as putting in some type of language into a sunset clause-type piece of legislation? Is that something that would work for you?

**Mr. Calvin Gilbertson:** In the north, I don't think you need a sunset clause at all because the jobs could be so few and far between and there's so many kilometres of road, and to close a pit in the middle—the road may not be surfaced for 20 years. And then to have to go through

the permit process again? That's why I'm happy the MTO has those permits available for use in the north, because there's no way we could go through the permit process.

We have three months to work in the north, three good months. Then you've got frost on the start, frost on the end, wet weather. It just would make it totally—we just couldn't do it, as private companies. That's why the MTO has those clauses in there, so that they can get those pits through without quite as much public consultation. I guess maybe it should be looked at, but they need the aggregate.

**The Acting Chair (Mr. Joe Dickson):** Okay, sir. Thank you. The next questions will go to the Liberals.

**Mr. Mike Colle:** Thank you for the presentation. I know the northern members were talking about how many hours it takes to get across their riding and how vast it is. All I know is that my riding is not large, but sometimes it takes me three hours to drive across my main street of Eglinton Avenue, and sometimes I wish I was driving across Manitoulin Island rather than in that traffic.

1720

The one thing you brought up which hasn't been brought up by many presenters is the importance of sand and the fact that we need it for winter maintenance. Could you explain your work with sand and how you work with MTO and road safety, that part of your business? Because that's the first time we've really heard the sand part of the presentation.

**Mr. Calvin Gilbertson:** Well, it's changing, now that they're putting all the patrols out to private. Transfield and Miller and whoever gets the whole job, so we now work for them. But we can still use the ministry pits. Ministry pits are available free of charge as long as the aggregate or product is going, final use, to them.

So we'll go in, clean up the pit, whether it's new, old, or whatever. We find one as close as we can. Somebody was asking, "What is 'close'?" We don't like to haul any more than 20 kilometres. Anything more than that gets a little bit more expensive in the way we bid the jobs.

We'll go in, bring our machinery in—four trucks, five trucks—and screen the material out to quarter-inch. Anything under quarter-inch goes into the dome. It has to be less than 5% dirt, and it can't be over one quarter of an inch—what is that, 6 millimetres? We mix it with 3% salt and stack it in the dome.

**Mr. Mike Colle:** So then your trucks would take it to the domes and then it gets mixed with salt and then it's used for winter road maintenance, which is more than half the year, right?

**Mr. Calvin Gilbertson:** Yes.

**Mr. Mike Colle:** And that's why you need all these pits available in different parts of north, so that you don't have to go way across miles and miles to get that access to that sand.

**Mr. Calvin Gilbertson:** Yes.

**Mr. Mike Colle:** And that's why you were saying it's very important to look at the sunset clauses as they might

relate to the pits that are available in the north, and that would be very difficult in terms of your operation.

**Mr. Calvin Gilbertson:** Oh, yes; extremely.

**Mr. Mike Colle:** Thank you very much, sir, for the presentation.

**The Acting Chair (Mr. Joe Dickson):** Thank you, sir. I will now go to the Tory Party, please.

**Mr. Victor Fedeli:** Thank you very much.

*Interjection.*

**The Acting Chair (Mr. Joe Dickson):** Oh, whatever you would like to be called.

**Mr. Michael Harris:** Progressive Conservatives.

**The Acting Chair (Mr. Joe Dickson):** Now please join me in hearing the questions from the Progressive Conservative Party.

**Mr. Victor Fedeli:** Thank you very much, Chair. Mr. Gilbertson, just a couple of general questions, and then I'm going to get into a bigger-picture question. I hope you'll humour me with some answers on that.

First, do you use MTO sites exclusively or do you have some of your own?

**Mr. Calvin Gilbertson:** No, we have lots of our own.

**Mr. Victor Fedeli:** This 120-metre regulation: Do you have any philosophy on that yourself, about notice? Just sort of a quick thought on that—the 120-metre setback.

**Mr. Calvin Gilbertson:** Setback?

**Mr. Victor Fedeli:** For giving notice.

**Mr. Calvin Gilbertson:** Oh, notice. If Scott was here, I would. He does all our pits and quarry plans and pit reports.

**Mr. Victor Fedeli:** That's a fair-enough answer. One of the earlier presenters on the sunset clause suggested that having a sunset clause will cause the quarries to close prematurely, resulting in an increase in application for new sites. Do you have a thought on that as well?

**Mr. Calvin Gilbertson:** I'm assuming, with the sunset clause, that you could redo it, could you not? Like, reapply? If you could, you could reopen that same quarry. In the north, I don't think we've ever depleted a pit yet.

**Mr. Victor Fedeli:** Okay. That's fair enough as well.

I wanted to get into a bigger picture. I will treat you as an expert in this field. I wanted to ask about the Ring of Fire. How are we going to build a road to the Ring of Fire? Do you have any philosophies on that?

**Mr. Calvin Gilbertson:** Very carefully.

**Mr. Victor Fedeli:** I figured you'd be the right guy to ask. You just struck me as the right person. Can you take just a minute or two, especially for those of us here who may not be familiar with that? Just give us your thoughts on that.

**Mr. Calvin Gilbertson:** I don't know enough about it to give you any educated information or guess about it. I know it can be done.

**Mr. Victor Fedeli:** The building of a couple-of-hundred-kilometre—

*Interjection.*

**Mr. Victor Fedeli:** I'm sorry?

**Mr. Calvin Gilbertson:** I know it can be done, and we'd be happy to help.

**Mr. Victor Fedeli:** I'll leave it at that, then. I appreciate your time. Thank you.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much for your presentation, sir. I'm sorry to hear you've got so far to go back to Wawa. I can tell you, from someone who has snowmobiled from Apsley up to Wawa and back with his boys several times: Enjoy the scenery on the way up.

**Mr. Calvin Gilbertson:** Thanks.

**The Acting Chair (Mr. Joe Dickson):** Maybe I'll see you in the wintertime.

**Mr. Calvin Gilbertson:** I hope before that.

**The Acting Chair (Mr. Joe Dickson):** Okay. Thank you very much, sir.

#### MR. JIM CLARK

**The Acting Chair (Mr. Joe Dickson):** I'd like to ask Jim Clark to come forward, please. Welcome, sir.

**Mr. Jim Clark:** Thank you. Before I start my presentation, I wish to thank the standing committee on a completely different task, and that is for your efforts in the successful discussions on Bill 8, the underground infrastructure notification act. I know that you were able to find common ground that allowed that to pass through the Legislature. As a safety professional as well, I know you're going to save a lot of lives with that work.

I'm Jim Clark. I grew up in rural northern Ontario and spent many summers working on the family farm, bringing in crops. When I graduated college in 1974, I went to work for a construction company located in a relatively small gravel pit on the northern edge of Sault Ste. Marie, and I was there in 1976 when the area was designated under the Pits and Quarries Control Act.

In 1998, I was deemed qualified by the Ministry of Natural Resources to prepare and certify plans pursuant to section 8(4) of the Aggregate Resources Act. I've spent most of the past 40 years of my life planning, designing and operating pits and quarries in northern Ontario. I'm now employed to oversee and help manage some 67 operating properties and have another six at various stages of the licensing process. We are located solely in the north—you know, that's the place that everybody wants us to come and get the gravel out of.

We began recycling asphalt pavements back in the early 1980s, mostly hot-mix pavements, and some has been used to create a higher-end processed aggregate with superior compaction capabilities.

Fill sites were abundant at the time in Sault Ste. Marie for clean fill—that's the stuff without the concrete and asphalt in it—so we began accepting concrete and pavements, provided the contractor separated the materials into separate, clean products, much like you see in the blue box program. Our success was twofold: We accumulated pavements to recycle and market, and at the same time, fill areas were not contaminated with buried pavements and concrete.

In many northern communities that we operate now, the reclaimed pavements have become unavailable, and they're in short supply due to the demand for the product to recycle by others, and it's usually the municipality.

In our experience, recycling concrete has not been as successful, due to the cost, however. Most road base granular material in the north is bank-run gravel and, as such, does not require crushing, making it less expensive to produce. To reuse concrete, it must be crushed or processed, adding to the cost of the product and making it less competitive. Granular materials that require processing, regardless of the raw material, can be competitively priced but also face challenges. Sidewalks that have been constructed using wire-mesh reinforcing have not been successfully recycled into road surface materials because the wire fragments that remain will puncture tires.

As I read the Hansard, the situations I've experienced seem to be completely different from those presented to you in many of the deputations. In my hometown of Sault Ste. Marie, all municipal road bases are now constructed with 100% recycled iron blast furnace slag, and our market for road base material is nearly nonexistent. This market may return at some time in the future, since currently the blast furnace slag is being granulated into slag-cement raw materials and is processed into a marketable product. In Sudbury, recycling of slag into road base or parking-lot granulars amounts to less than 150,000 tonnes per year. Nickel slag recycling has diminished in recent years due to some durability issues.

Each new aggregate application site plan that we produce or that we have amended has a provision for recycling, but not all the plans that were produced in the past have that clause, and we're not able to recycle everywhere.

#### 1730

If the members of the committee have time after this session, I invite you to go just a little bit, about 10 minutes up the road, and we can spend some time at a train-loading facility that is owned by our company. Although we don't have any trains there right now, you could actually see the size and composition of the train-loading facility that would be required if the rail option is what you recommend going forward. I'd welcome you to come with me and we could show it to you.

I know it's likely that the Aggregate Resources Act fees will increase substantially as a result of this review, and that's not a bad thing, providing the fees do not disappear into general coffers but, rather, stay with the management of stone, sand and gravel. We are the only road user that contributes directly to the infrastructure that we use.

To quote former Sudbury Mayor John Rodriguez at a TOARC cheque presentation a few years ago, "I thank the aggregate producers for doing their part. Now, if we could get the provincial government to share more of the monies collected from the mining industry, it would go a long way to eliminate the infrastructure deficit."

Municipal roads are not funded by any other industry that uses those roads as part of their normal production—not lumber mills, logging, not agriculture or manufacturing.

It was suggested in one of the deputations that a fee increase is like the incoming tide: all ships would raise the same amount. On that point, I would like you to consider an actual competitive disadvantage that exists along the Lake Huron north shore. First Nations communities have begun commercial aggregate production in more than one location. It's their resource and I applaud their thoughtful and careful management of their land. These sources, however, are outside of provincial jurisdiction. Any fee increase would not apply to their operations and cause an additional burden on adjacent producers who are licensed under the Aggregate Resources Act.

The Supreme Court of Canada has reiterated that governments in Canada have a duty to consult with aboriginal groups when making decisions that may adversely impact lands and resources subject to aboriginal claims. In my mind, this means that the provincial government must consult with aboriginal governments regarding aggregate applications on lands that the First Nation may have a claim. This does not mean that the aggregate licence applicant must enter into negotiations with the First Nation; it means that government-to-government discussions are to take place prior to the MNR issuing a licence on private land that could be part of a First Nation claim and must give consideration to that claim. I feel the MNR needs to be directed to conduct that consultation.

Ontario is a vast and variable land mass. The territory that I regularly visit is from Mattawa to Manitoba. Now, when you look at a map, it doesn't look that massive, but if you got in your car at Queen's Park and drove south a similar distance, you would be getting out of your car in Daytona Beach, Florida.

Think about the diversity of species that you would encounter along your trip south. There are areas of Ontario where certain species and their habitat have been endangered, while at the same time, in other parts of Ontario, the species are abundant. The whippoorwill is one example on the list of endangered species, yet is abundant in much of the north and has been found adjacent to every site we recently surveyed. Bald eagles are found everywhere if you go to Vermilion Bay, yet they're designated "of concern" in the rest of Ontario. Black bear are found regularly in the backyards of the homes in subdivisions in many cities in northern Ontario, and the suggestions of some imaginative northerners to relocate them to Rosedale or Queen's Park Circle have not been received all that well and have been dismissed out of hand.

The last item I believe I will have time for relates to the many comments made to this committee that industry is not—

**The Acting Chair (Mr. Joe Dickson):** You have one minute, sir.

**Mr. Jim Clark:** —rehabilitating properties to pre-existing uses. At our pit in Sault Ste. Marie, we planted nearly 9,000 red pine seedlings to rehabilitate slopes while we continue to operate the site.

Just to highlight the efforts of the founder of one of the companies I've been associated with: During 1971, Mr. Clifford Fielding planted over one million trees on a barren and rocky parcel within Sudbury he had purchased and planned to develop. The property is now covered with a beautiful mixed forest teeming with rabbits, birds and other wildlife, intermingled with our production buildings. This greening effort did not occur because of any legislation requirement, but because it was the right thing to do.

Thank you.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much, sir. I will now ask the Ontario Liberal Party for questions.

**Mr. Michael Coteau:** Thank you very much, sir, for your presentation. I appreciate it.

A couple of comments you made with regard to industry leaders taking the initiative to plant trees and to rehabilitate the property: We've also seen people within the sector do the complete opposite and just abandon sites. Also, with regard to recycling, we've seen some reports that compare our jurisdiction to other jurisdictions internationally, and I believe Ontario was at 5% versus the UK, which is, I believe, at 25%. Any comments on those two issues?

**Mr. Jim Clark:** Well, I can't speak to the UK, but I know that in some of our road projects, we recycle 100% of the material that was there. Some of it may turn back into road base, some of it may be recycled into new driving surface, but in a lot of cases it's 100% recycled. In municipal cases, there are cities like North Bay, which are collecting their own asphalt pavement so that it can be recycled in their own projects.

**Mr. Michael Coteau:** Do you think there's anything the government—

**The Chair (Mr. Joe Dickson):** Thank you very much. We will now go to the Ontario progressive party.

**Mr. Michael Harris:** Conservative Party.

**The Chair (Mr. Joe Dickson):** Conservatives, too.

**Ms. Sylvia Jones:** Thank you. Mr Clark, I'm really glad you took the time to present to the committee. You brought a different perspective. I'm going to ask you one question, because you cited a lot of things in your presentation. I'm in no way making reference to your age, but you have operated in the industry under basically three different sets of legislation. If there was one thing that you would like our committee to take away from your presentation, what change would you like to see in the Aggregate Resources Act?

**Mr. Jim Clark:** I would like to see a separation between highly populated areas and the lower density areas like we find in northern Ontario, because the consultations and the concerns that affect neighbours don't always exist in northern Ontario, yet we still require that

same type of consultation and expense for much, much smaller quantities.

**Ms. Sylvia Jones:** Thank you for your time, sir.

**The Chair (Mr. Joe Dickson):** Thank you. I will now go to the Ontario NDP.

**Ms. Sarah Campbell:** Thank you for your presentation. I think it was very thoughtful and informed. I just want to ask you a quick question, and I do mean quick. Can you define “northern Ontario”?

**Mr. Jim Clark:** Northern Ontario: I guess it starts just south of Sudbury, in my mind. It’s not Muskoka. Muskoka is still southern Ontario, in my mind.

**Ms. Sarah Campbell:** Thank you. The other question I have for you is, you talked about how an increase in the levy could adversely affect some non-First Nation-run operations. Do you have any idea how we could possibly reconcile that to create a level playing field while also respecting the fact that many people are calling for an increase in the levies?

**Mr. Jim Clark:** I don’t have an answer, because one is federal jurisdiction and one is provincial jurisdiction—unless the federal government can work more closely, and recognize that inequity, with the First Nations.

**Ms. Sarah Campbell:** Okay. Thank you.

**The Acting Chair (Mr. Joe Dickson):** Thank you very much. Thank you, Mr. Clark. I would ask if you would speak to the committee clerk—or, as we lovingly call her, the boss—and give us the information on your location for the train.

I got up at 4 o’clock Monday morning, and except for five hours’ sleep sometime early this morning, we’ve

been going everywhere. I know we’re late to catch a puddle jumper to the next stop, so I’d love to have that information left with us. I’d like to thank you for your presentation this evening.

I’m going to now turn it over to Mr. Harris, who has a request of legislative research.

**Mr. Michael Harris:** Thank you, Chair. I was wondering if we could put a request in for legislative research to provide the committee with a paper that would identify other jurisdictions that import aggregate into Ontario, that being the US, possibly Quebec. Specifically, we’d like to know—or I’d like to know—what their levies are; if they have sunset clauses in their acts; if there is a recycling component; and possibly the average time to complete an application in those jurisdictions.

**The Acting Chair (Mr. Joe Dickson):** Research advises me they have noted that and will certainly look after that for you.

**Mr. Michael Harris:** Thank you.

**The Acting Chair (Mr. Joe Dickson):** Ladies and gentlemen, I would like to thank everyone for attending. I know every member around this table, from all parties, would like to assure you that the government is looking to improve the Aggregate Resources Act, and that is for all interested parties and presenters, wherever and however we can. So we’d like to thank you for the time you have taken to spend with us tonight.

I now call that this meeting be adjourned. Thank you.

*The committee adjourned at 1741.*



# CONTENTS

Tuesday 17 July 2012

Aggregate Resources Act review .....	G-469
Skelton, Brumwell and Associates.....	G-469
Ms. Anne Guiot	
Pioneer Construction.....	G-471
Mr. Malcolm Croskery	
Rock Lake Property Owners Association .....	G-474
Mr. Jim Gomm	
Ethier Sand and Gravel Ltd.....	G-477
Mr. Marcel Ethier	
Mr. Mark Zinn	
Bernt Gilbertson Enterprises .....	G-479
Mr. Calvin Gilbertson	
Mr. Jim Clark .....	G-482

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