

PRESENTATION TO ONTARIO MUNICIPAL BOARD

OBJECTION TO DENMAR QUARRY

D.Stewart / B.Jolley / H.Longfellow

Hearing Date : 06 January 2014
West Nipissing Council Chambers

Cottager's objection to Clear Lake Road Quarry Application (Aggregate Resources Act) on basis of PUBLIC SAFETY and PROTECTION AND PRESERVATION OF THE ENVIRONMENT

OPENING COMMENTS

Good day.....my name is Derek Stewart, (705-758-1496 - address 224 Northshore Rd, Field Ontario, P0H 1M0, email dnlstewart13@netspectrum.ca)

I am the President of Clear Lake Cottagers' Association and I will be assisted during today's presentation by our Secretary...Bob Jolley (705-758-1409 – address 116 Northshore Rd, Field Ontario P0H1M0, email bjjolley@sympatico.ca)

I am pleased to provide these opening comments and will follow up with a full presentation and closing comments when directed by the panel.

Clear Lake Cottage Association represents the owners of ninety seven (97) residences located on Bain Lake in Field. This lake is commonly called Clear Lake. A high majority of our residents are cottagers; however there are 26 year round homes.

Our Lake is located approximately 3.5 kms northeast of the site of the existing Denmar gravel pit.

While Highways 575 and 64 provide round about access to our area, Clear Lake Rd represents the most direct route our residents have to travel back and forth to Highway 17 and larger urban communities. Consequently it is heavily relied upon by our people. As you are aware, the existing Denmar pit is also located on Clear Lake Rd.

Our Association takes the position that Denmar Construction's application for a quarry licence should be refused for two reasons

- 1) Protection of public safety, and
- 2) Preservation and protection of the environment

At the onset of our full presentation, we will be submitting an indexed list of twenty-five documentary items to substantiate our assertions that Clear Lake Rd is neither designed nor kept in a state of repair that allows for the safe travel of heavy commercial vehicles along with commuter traffic and to demonstrate the efforts our Association has made to overcome the problem.

Truck traffic from the gravel pit operation has always been problematic and any attempt to increase the size and number of heavy haulers on this road could be catastrophic.

In our opinion, the need to maintain public safety on Clear Lake Rd provides the first basis on which authorities should refuse to issue the applicant a “Quarry” licence.

Our presentation will also outline our position that a full environmental assessment is required to accurately predict the affect that a change to quarry operations will have on our environment.

We submit that the hydro geological and blast analysis information provided by the applicant fails to provide the level of assurance that a licensing body should have before a licence is issued. Preservation and protection of the environment provides the second basis on which authorities should quash this application.

I will be pleased to proceed with our full presentation and answer any questions when required by the panel.

PRESENTATION

I would like to commence by submitting documentary exhibits that I will refer to throughout this presentation. We have provided a List of Exhibits page with each package itemizing the documents and photographs contained therein. We have provided copies to those outlined in the rules of procedure.

I should note that item #23 on our List of Exhibits relates to a series of photographs of Clear Lake Road. I will use these photographs to demonstrate the configuration and shortcomings of the road. The photos were taken by a member of our Board of Directors, Howie Longfellow, (705-758-1205, 117 Southshore Rd., Field, ON P0H1MO, howie@crimsonpepper.com) on 5 Oct 2012. Our Secretary, Bob Jolley was present.

At the onset, I wish to make a few comments in relation to the Aggregate Resources Act.

The panel will be aware of the ongoing Legislative Review into the Aggregate Resources Act. In their May 2012 submission to the legislative committee, the Association of Municipalities of Ontario (AMO) stated the following:

“As host communities, municipal governments are concerned with the change in land use to permit a new operation and the planning process, through to the actual siting and day to day operations of pits and quarries and the effect these operations have on nearby residents and businesses including the effect on quality of life through dust, noise and truck emissions. We often hear about concerns about the impact these operations and the transport of aggregates from the site to market have on water and air quality, the safety of roads and, of course, the wear on our infrastructure through increased trucking”.

The submission goes on to state:

“Aggregate operations especially any that go below the water table may affect ground water sources of our drinking water systems. The public wants to see the safety and supply of their water sources protected in any quarry or pit operation before any approvals or permits are allowed, including any cumulative effect when multiple operations occur and over time. The province will need to ensure that an appropriate policy balance, with appropriate safeguards, is applied to aggregate operations.”

The David Suzuki Foundation made similar observations in their submission to the review committee.

Locally, the regulatory shortcomings in the existing Aggregate Resources Act only compelled the applicant to notify a handful of households of this licence application.

Less than 5% of those affected, received any notice of the application process. The notice that Denmar posted at the pit entrance is not legible from the roadway.

Local communication was further complicated by the minimal attempt that the municipality of West Nipissing took to solicit public involvement in the process.

In our submission, the municipality of West Nipissing and their Committee of Adjustment showed poor judgement throughout and did not address any of the issues or concerns that were raised to the Legislative Committee by the Association of Municipalities of Ontario.

Both local processes may have met legal requirements, but they certainly fell short of actively soliciting the input of those people who would be most affected by the proposal.

The application process, commenced in March 2010, but only came to our Association's attention *by word of mouth* four (4) months later. We are confident that the number of objections registered against this proposal would have been significantly greater had people known what was going on.

At this time, I wish to state that the membership of Clear Lake Cottagers' Association is unanimously opposed to issuance of any licence that will expand the operations at the Denmar gravel pit. We submit that the licence application should be refused on two bases. I will deal with each separately.

1. Public Safety – Clear Lake Rd is a gravel roadway with deep roadside ditches in many areas. Despite upgrades in 2009, there are no discernable shoulders. The edges of the roadway are comprised of loose gravel and are therefore very soft. There is no overhead lighting or roadway markings. (See photo image 13, Exhibit 23)

The travel portion of the roadway is considerably smaller than what one could expect on primary or secondary highways and the drivable road surface is further reduced during winter months. (See photo images 5, 13, 21 and 22b, Exhibit 23).

The photographs clearly demonstrate that the road is comprised of numerous "s type curves" noticeable elevation changes, blind hills and gulleys.

Entrances into most private properties are unmarked (See photo images 14 through 17) and wildlife habits all areas. Parking near Tanner Lake can reduce traffic to one usable lane (See photo images 22a through 23). Speed limits are set at 60km/hr in Springer Twp and 50 km/hr in Field Twp.

The road leads to cottage country. Residents and those commuting from other areas often drive smaller vehicles including many ½ ton trucks. Throughout the school year, school bus traffic is common. There are no sidewalks, but pedestrian, bicycle and all terrain vehicle traffic are all common to the area.

The map and photographs contained in Exhibit # 23 show the configuration of Clear Lake Rd and support our contention that the roadway is ill suited for large truck traffic.

Photo Image 28, demonstrates the view a southbound driver has when rounding the curve and approaching the entrance to the Denmark Pit.

Denmark's Operational Notes (1.2.20) indicates that a variety of trucks would be used to haul aggregate. Item # 24, List of Exhibits, illustrates just how large these types of vehicles could be. The Highway Traffic Act would allow use of haulers 2.6 m (8.5ft) in width and 23 m (75 ft) in length.

The Applicant's Operational notes (1.2.5) and the plan indicate the Applicant would require municipal approval to use this entranceway.

Large fully loaded haulers exiting from this location would take an inordinate amount of the roadway and present an unnecessary threat to other travellers (especially if the hauler was proceeding northbound). The "stopping sight distance" at this location and in many other stops on the roadway is negligible. In our submission, this entrance does not warrant municipal approval. (See photo images 26 through 28)

This Association has received numerous complaints that residents are already being forced to take evasive action to avoid standard dump trucks that fail to share ½ of the roadway and travel at high rates of speed. It is only reasonable to deduce that larger quarry type vehicles would further crowd the roadway (See item 4, 7 and 11, List of Exhibits)

With soft shoulders, what is the likelihood that the driver of a 40 ton hauler would do anything but stay to the centre of the roadway to avoid sliding off of the roadway into a ditch?

I am confident that the likelihood of surviving a head on collision with one of these types of vehicles would be minimal for the driver and passengers in a smaller vehicle.

Considering the municipal responsibilities outlined in the Municipal Act, under existing conditions, West Nipissing council would be subjecting the municipality to liability if they did not take active steps to quash this licence application. (See item#25, List of Exhibits,)

To our knowledge, no studies have been conducted to determine the affect that quarry traffic will have on road safety. Lane widths, shoulders, ditches, hills, etc., create safety hazards that could only be overcome with considerable reconstruction including curve widening, brushing and removal of existing hills.

In our submission, the municipality should rule that the character and location of Clear Lake Rd is not in a state of repair that would safely facilitate quarry operations. Accordingly, council should not approve an entrance onto Clear Lake Rd.

Mr. Villard, in his presentations on behalf of Denmar has confirmed that the size and number of trucks employed in operations would increase (Denmar Operational Notes 1.2.20).

Denmar's application indicates quarry operations would be from 7:00 a.m. to 7:00p.m Monday to Friday - *except in cases of emergency* (Denmar Operational Notes 1.2.22). If "cases of emergency" are solely determined by the Applicant, quarry operations could easily extend beyond sixty (60) hours per week.

In addition, the applicant proposes to use the site to store aggregate brought in from other locations (Operational Notes 1.2.11(a)). This would increase trucking to an even greater level.

Finally, Mr. Villard (Denmar consultant) has indicated that upon receiving licence approval, Denmar, could sell the quarry to a larger operation without restriction. Sale of this property to a larger company could turn Clear Lake Rd into a heavy hauler thoroughway. In our submission, these provisions are simply too wide open to be considered by a licensing body.

Existing gravel pit operations and Denmar trucks already represent a risk to the people using Clear Lake Rd... A review of (items # 1- 21, List of Exhibits) will disclose to the panel, the attempts our Association has made over the past four (4) years to have authorities remedy the situation.

We would remind the Board that the existing "pit licence" was grandfathered in by legislation. The municipality and West Nipissing citizens did not have any input in the process. We are pleased to finally bring these public safety issues before the OMB.

Denmar Construction began their process by submitting an application for “minor variance” to West Nipissing Council.

In our submission, the West Nipissing Council, Committee of Adjustment failed to consider the ramifications that “approval” would have on public safety, our environment and municipal liability during their review of that request. The AMO presentation to the Legislative Committee addressed “infrastructure” in the following manner:

“Municipal governments hosting aggregates operations have long believed that the reimbursement municipalities receive for their road infrastructure is much lower than the actual costs imposed by the wear and tear of operations attributed to aggregates transportation”

Clear Lake Rd is not maintained in a state of repair suitable for existing truck traffic, let alone the scale proposed by Denmar in their new application.

If a quarry licence is granted without prior massive upgrade to Clear Lake Rd, West Nipissing could be found liable for damages any person sustains because of the default.

Simply put, the Committee of Adjustment took a limited view of their responsibilities and *dropped the ball* when they approved the “minor variance” that paved the way for this quarry application.

The Applicant has suggested that “road safety” falls within the mandate of the municipality and is not something that must be addressed by his company in their application to the MNR.

David Villard has indicated that *road safety is a valid concern and suggested that the Applicant could remind drivers to drive safely when they were leaving the pit.*

In public presentations, Mr. Villard suggested he would share our concerns regarding truck traffic if he lived in the area and would likely be approaching the municipality in that regard. (Not verbatim).

Considering the past history and condition of the existing roadway, should the citizens of West Nipissing and others using Clear Lake Rd be satisfied that asking heavy truck operators to drive carefully would substantially reduce the hazard that these huge trucks present on Clear Lake Rd? I think not.

Our Association submits that under existing conditions, the only way to protect the safety of persons using Clear Lake Rd. is to minimize future heavy truck traffic on the roadway. On that basis we submit that the panel should deny this licence.

2. Protection of the Environment - The existing gravel pit, according to Denmar is seventy-five (75) years old. At present, Denmar is authorized to only dig and crush aggregate – thus limiting the effective life span of the pit. A reminder that this Pit licence was grandfathered in. The public had no input at the time.

As a result, the public was subjected to heavy truck traffic on Clear Lake Rd before any study was undertaken to determine if it would be safe. In the absence of any proactive action by the municipality, this situation will exist until it is no longer financially rewarding for Denmar to operate the pit.

Denmar's present application proposes to extend pit life by expanding to quarry operations. The applicant proposes to blast, chip and dig twenty (20) meters below the water table to extract 46 hectares of aggregate.

When these proposed operations are complete, both sides of the public roadway running by the pit will be submersed in water. We are unsure if the members of the municipal Committee of Adjustment were privy to all of this information or truly comprehended the magnitude of the proposal when they met to rule on the minor variance request in 2010.

Under the "grandfather" clause in legislation, Denmar acquired the gravel pit without ever having to address the need for environmental protection.

In the application for a quarry licence, the applicant has chosen to submit a hydro ecological study and blast analysis instead of submitting to the full assessment process.

It is our understanding that the MNR does not require licence applicants to undertake the expense of an environmental assessment unless extenuating circumstances exist.

This is unfortunate as our members feel that a full environmental assessment would provide the best evidence upon which a licensing authority could base a decision.

The reports included with the quarry application are based on a very limited amount of research vs. comprehensive study. This could affect the accuracy of the findings.

As an example, some members of our Association have hunted and frequented this site for years. From personal observation, they have developed the opinion that the area is frequented by a greater variety of wildlife than has been addressed in the report.

The application lays out the steps that Denmar will take to avoid damaging the environment. The applicant has suggested that monitoring of boreholes and surface water testing could adequately protect wells and water bodies in the area. We disagree.

The gravel pit and surrounding area are located on the Cambrian Shield where water often travels through an intricate and indiscernible system of fissures and fractures in the rock. This is not a simple case of monitoring a river to ensure it is unaffected.

In our submission, when fissures and fractures are involved, proximity of the pit to a water body is not the only valid indicator of the potential for damage. The fissure or fracture carrying water to a lake may commence nowhere near the area that it discharges into the water body.

It is therefore difficult to determine with any certainty what the affect of blasting at the pit would be on area lakes / water bodies, regardless how far they are from the blasting.

For this reason we submit that water testing methods suggested by the Applicant would at best confirm problems *after the fact*.

There is a substantial possibility that these monitoring sources would not give any indication of actual damage being done to waterways in the area.

Clearly some fissures or fractures would be more intricate and fragile than others, but once a system is broken, the damage would be irreversible.

Environmentally, our biggest concerns relate to preservation of our existing water levels and quality in area waterways, lakes and wells.

The applicant has committed to do a pre-blast check of some private wells within a small area adjacent to the site. There is a possibility that this would provide some well owners with recourse if their well was adversely affected by quarry operations.

However the applicant has not stated what would be done if area lakes, ponds or wetlands were affected or what could or would be done to remedy the situation for the residents and wildlife living or habiting the area.

In our opinion that reflects the reality of the situation. Even if blasting did negatively affect existing fissures or fractures in the Shield and subsequently damage or drain an existing lake, it will be impossible to prove.

Thus the Applicant would escape any liability for the irreversible damage this operation has caused.

It is our submission that the water testing procedures outlined by the Applicant are included as a *means to an end* in the application process but offer little protection to area wells and water bodies.

Denmar's submission also addresses directional blasting. Operations notes (1.2.1) indicate that blasting will be conducted in phases and blasting directed so that overpressure will face away from structures *as much as possible*.

Notes further indicate that directional blasting may be trumped by market demand. In other words, blasting direction and location will be adjusted when it will enable the Applicant to sell more aggregate. This offers little solace to people living in close proximity to the pit.

Operational note (1.2.22) once again indicates that the sixty (60) hour work week could be increased for *emergency work*.

In relation to wildlife, the proposal (1.2.27 Natural Environment) suggests that existing laws and active enforcement by responsible agencies should suffice to adequately protect the environment.

Recent media announcements lead our members to question whether or not the Ministry of Natural Resources, Ministry of Fisheries or Ministry of Environment will be capable of providing the type of regular proactive enforcement that would be required to keep things *in check*.

Gord Miller, the province's environmental commissioner, has often argued that there aren't enough inspectors at the Ministry of Natural Resources to properly police the 2,350 working pits and quarries in the province.

For example "blandings" turtles, which are listed as *a species at risk*, are known to frequent the pit area. (See item 22, List of Exhibits)

We just ask the members of this panel to consider this – In the absence of direct oversight, what is the likelihood that the applicant would really issue a stop work order and loose revenue at the sighting of a turtle?

Clear Lake and Tanner Lake are cottage country. Persons who habit these areas and other rural areas along Clear Lake Rd moved there for the tranquility that nature provides. Water front property is widely sought and real-estate values usually reflect that reality.

We ask the panel to consider what is being proposed.

At present, the Applicant operates loaders and trucks in a gravel operation. He is authorized to conduct crushing but that would require loose aggregate which must be less plentiful as the pit ages. Things should naturally be slowing down.

The Applicant is now requesting approval to change a relatively quiet pit operation to a noisy, dusty, faster paced operation *smack dab* in the centre of cottage country.

Blasting and drilling in a quarry operation can be expected to radically increase noise and dust levels. Despite any actions to suppress noise and dust, people in the area will be affected. Clear Lake residents who reside over four (4) kms from the Rod & Gun Club on Clear Lake Rd often hear reports from firearms.

Is it not likely that constant drilling, blasting and crushing will be audible and bothersome? We ask the Board to consider what affect that will have on cottage country and what toll will that take on real estate values.

Clear Lake residents and others living in the vicinity of the existing pit are satisfied that the Applicant has attempted to provide just enough research data to pass the MNR test. The study lacks the comprehensive findings that would be provided by an environmental assessment.

In our opinion, the fact that the proposed pit is located on the Cambrian Shield in close proximity to so many local water bodies and *smack dab* in cottage country should seriously affect the applicant's ability to secure a quarry licence.

Local wildlife, our water bodies, the way of life and financial investments of residents would all be jeopardized by a quarry operation. The Applicant is unable / unwilling to provide proof that these aspects of the environment can or will be protected.

The Applicant's application is revenue based. We ask the Board to consider the rights of the multitudes of other people who have developed the area in question and lived there long before the Applicant began operations. We must consider their investments.

On the basis of Environmental Protection, I would submit that no quarry licence should be issued.

This concludes our formal presentation, we remain available to answer questions and offer closing comments.

CLOSING COMMENTS

Once again, I would like to thank the members of the Board for providing the residents of Clear Lake an opportunity to voice their objection to the quarry proposal.

It is obvious there is widespread objection to Denmar Construction's proposal within the community.

The panel should now have a better understanding of the concerns residents have over heavy truck traffic on Clear Lake Rd. We recognize that the road in question is not designed or maintained to a level that safely accommodates trucks from the gravel pit and are therefore strongly opposed to expansion to quarry operations.

The Applicant is unable to show with a high level of probability that our environment would be secure from damage if quarry blasting or drilling was implemented at the pit and our assertion that any resultant damage to the water bodies would be irreversible cannot be refuted.

Our Association is satisfied that public safety and protection of environmental for the citizens of West Nipissing must take precedence when weighed against the business endeavours of this one Applicant. A quarry licence should not be issued.

We submit that sufficient basis exists to quash the application at this point, but if after deliberation you do not share our view, we would then ask the panel to:

- a) hold the quarry licence application in abeyance
- b) order the Applicant to submit to a full environmental Assessment process, and then, depending on the results of that study
- c) require the Municipality of West Nipissing to conduct a traffic study with solicited input from the public in relation to Clear Lake Rd with a view to redesigning and upgrading the roadway to a level that will safely accommodate heavy trucking , and
- d) Order that Clear Lake Rd be redesigned and upgraded before any further action is taken to process the Applicant's application for a quarry licence.

We thank you for the opportunity to speak and await your decision in this matter.