



# The Ontario Headwaters Institute

Andrew MacDonald and the Aggregate Act Review Team  
c/o Ministry of Natural Resources and Forestry  
Digital submission via the ERO  
PDF submission via [aggregates@ontario.ca](mailto:aggregates@ontario.ca)

November 4, 2019

**RE: ERO Notice #019-0556 – Proposed Changes to  
The Aggregate Resources Act and Ontario Regulation 244/97**

The Ontario Headwaters Institute, a charity working to protect the province's headwaters as well as their natural heritage, downstream watersheds, and receiving waters, provides the following comments and recommendations on ERO Notice #019-0556 – Proposed Changes to The Aggregate Resources Act and Ontario Regulation 244/97.

A. Ontario Needs to Adopt a Sustainability Lens for Planning

We continue to express deep concern that the Province is ignoring the need to develop a sustainability lens for all aspects of its land use planning regime, as we have raised repeatedly in many consultations, especially regarding the housing action plan, in spite of the serious threats to our climate, biodiversity, and finite resources.

Such a lens should embrace sustainable agriculture; sustainable planning, complete communities, and sustainable building practices; and take into account the conservation of materials such as aggregates.

**Recommendation 1:** That MNRFC champion with its partners in the One Window approach for planning that the Province devote increased efforts to sustainable planning in general, including increased recycling of aggregate and wood building materials.

B. This Proposal does not “Strengthen Protection for Water Resources”

We are dismayed that the stated goal of this proposal to strengthen protection of water resources is not met. As a member of the Simcoe County Greenbelt Alliance, we fully support the over-arching aspects of the submission of the Alliance that water protection is in fact diminished and not strengthened, especially below the water table, in this proposal.

We also note that MNRFC does not appear to have given much thought to a key section of the PPS, which states:

- “2.2.1 Planning authorities shall protect, improve or restore the *quality and quantity of water* by:
- a. using the *watershed* as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development”.

In addition to not honouring the use of the watershed as the ecologically meaningful scale for planning, we note a continued absence of the Ministry to move toward cumulative monitoring for aggregate operations. Three aspects to cumulative monitoring that are of concern to the OHI are:

- i. The continued reverse onus of people living near aggregate operations to prove the cause of reduced water tables in their wells. To begin, we submit that aggregate operations need to be supported by extensive studies on groundwater flow and the water levels in local wells. Consequently, in instances of lower water occurring in local wells, the reverse onus proof represents an extraordinary financial burden on land owners to pay for studies, which may not be conclusive, when what is needed is a local and provincial response to assist people whose access to groundwater may require deeper wells;
- ii. In addition to groundwater issues, the OHI is aware of areas near aggregate operations in which small surface water flows have been altered. Just as urban areas can present huge challenges to wildlife, rural areas deprived of surface water flows can be similarly disrupted, particularly for water fowl. Given that the same ministry that is primarily responsible for aggregates also has the protection of Ontario's wildlife in its mandate, we suggest that MNR aggregate site monitoring include a baseline and subsequent changes to surface water flows and species near aggregate operations; and,
- iii. As we have written for years, the Province should move to harness much of the data required for reporting by aggregate operations for water upstream of, on site, and downstream of those operations into both provincial water data sets and to be available in the public domain. Water is part of the global commons, and operator concerns about proprietary data need to emerge from the 1950s.

**Recommendation 2:** That MNR take a watershed approach to protecting water when considering aggregate operations and implement a cumulative approach to monitoring that includes baseline studies for local groundwater flows; baseline studies and monitoring of nearby surface flows and wildlife; and the incorporation of operator-reported data into Provincial and publicly available data sets. The Province should must also take steps to reduce the reverse onus on landowners whose wells may be lowered and support steps to address shortages of water from these wells.

### C. More Detailed Comments

The OHI is aware of and supports the detailed submission from the Canadian Environmental Law Association (CELA), and re-produces their recommendations below.

**Recommendation C.1:** The provincial government should immediately develop and consult Ontarians on appropriate ARA changes that decrease aggregate demand, strengthen MNR powers to protect the environment, and improve rehabilitation rates through better enforcement, as described in the 2017 ECO report.

**Recommendation 3.2:** Environmental Registry notice #019-0556 should be re-posted to establish a further 45 day public comment period, and should be amended to expressly indicate that Schedule 16 of Bill 132 contains the specific text of the ARA amendments proposed by the provincial government.

**Recommendation 3.3:** The proposed ARA amendments in sections 2, 3, 11 and 18(2) of Schedule 16 in Bill 132 should not be enacted by the provincial government.

**Recommendation 3.4:** Before the provincial government proceeds with any of its proposed regulatory changes, the draft text of the actual regulatory amendments must be posted on the Environmental Registry for public review and comment in accordance with Part II of the EBR.

We are particularly and deeply concerned that, by proposing Schedule 16 of Bill 132 in the waning days of comments on the Aggregate Resources Act and Ontario Regulation 244/97, the Ministry may have violated its Statement of Environmental Values as well as the Trust and Transparency principle of the draft Made-in-Ontario Environment Plan.

While we support all of CELA's recommendations, we urge you to recognize the urgency of 3.2 above.

Please feel free to contact the undersigned at your convenience for any clarification or further discussion.

Sincerely,

*Andrew McCammon*

Executive Director

cc: To be shared broadly