



**ADMINISTRATION DEPARTMENT
Chief Administrative Officer**

Report CAO-2009-001

To: Mayor and Members of Council

From: Doug Barnes, Chief Administrative Officer

Meeting: March 3, 2009

Subject: Town of Caledon Position Regarding:

- **The Rockfort Quarry Official Plan Amendment and Zoning By-law Amendment Applications (Town of Caledon File Numbers: POPA 98-05 & RZ 98-08);**
 - **The Rockfort Quarry Category 2 License Application; and,**
 - **The Comprehensive Broader Scale Environmental Study for Town of Caledon Aggregate Resource Area 9-A**
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RECOMMENDATION Requires Action For Information Only

1. That Report CAO 2009-001 regarding Town of Caledon Position Regarding: Rockfort Quarry Official Plan Amendment and Zoning By-law Amendment Applications (Town of Caledon File Numbers: POPA 98-05 & RZ 98-08); The Rockfort Quarry Category 2 License Application; and, The Comprehensive Broader Scale Environmental Study for Town of Caledon Aggregate Resource Area 9-A, be received;
2. That the Town of Caledon join Credit Valley Conservation in opposing the Rockfort Quarry Official Plan Amendment, Zoning By-law Amendment and Category 2 License applications, for the reasons outlined in Report CAO 2009-001, including, but not limited to:
 - a. Insufficient characterization of the highly complex groundwater system necessary to design effective mitigation prior to planning approvals;
 - b. Complete reliance on a large-scale engineered grout curtain structure and recharge wells to mitigate against unacceptable environmental, social and fiscal impacts, and associated uncertainties, risks, cost effectiveness questions, as identified by Credit Valley Conservation and the agency peer reviewers;
 - c. The magnitude of potential financial risks to landowners and public agencies and the absence of legally binding financial assurances to mitigate against these risks;

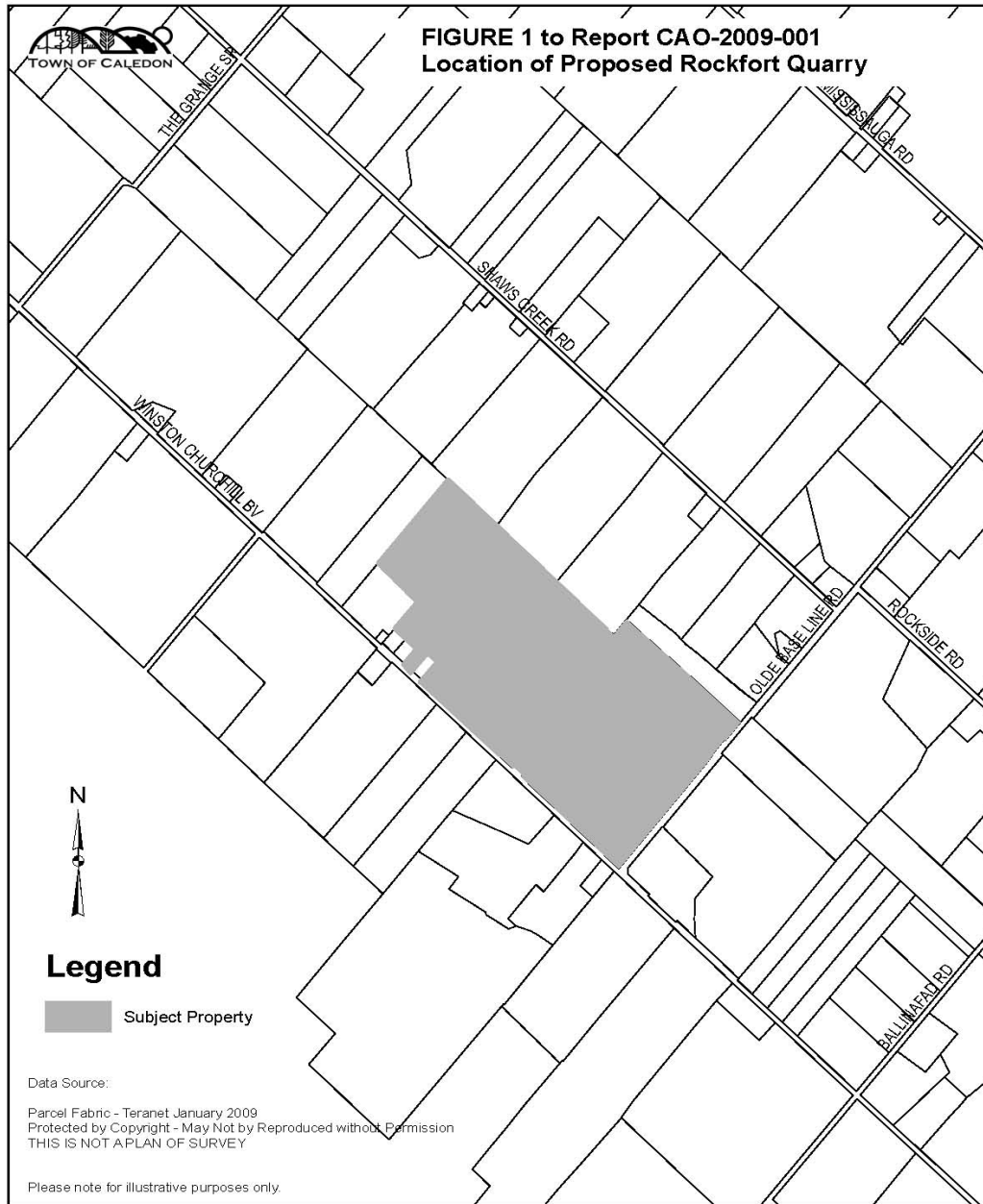
- d. Technical deficiencies in the supporting studies submitted by JDCL, as identified by Credit Valley Conservation and the agency peer reviewers;
 - e. Policy conformity issues as identified by Credit Valley Conservation and the Town of Caledon;
 - f. Concerns that key elements of the proposed mitigation system are separate from the current approvals being sought by JDCL and over which the Town of Caledon has no regulatory control, including the Permit to Take Water and Certificates of Approval that will be required from the Ministry of the Environment at some future date;
 - g. Concerns that the *Aggregate Resources Act* licensing system administered by the Ministry of Natural Resources does not protect the financial position of host municipalities;
 - h. Concerns regarding the self-policing nature of operator compliance with conditions of an aggregate license, and the lack of any direct local municipal authority to enforce/address compliance concerns; and,
 - i. Concerns that there is no statutory basis under the *Aggregate Resources Act* and other provincial legislation to ensure that the licensed operator of a quarry is accountable and responsible to the local municipal authority for the long term operation and management of the quarry in the interest of the municipality and the public and the fulfillment of mitigation measures and monitoring mechanisms to deal with local and area-wide impacts, according to conditions, permits, and approvals governing the quarry and associated structures and functions.
3. That Council authorize the Mayor to communicate with the Minister of the Environment to request that the Province of Ontario designate, by regulation, that the proposed Rockfort Quarry be subject to an environmental assessment under the Environmental Assessment Act and to request that a Director of the Ministry of the Environment require the Environmental Review Tribunal hold a hearing into whether the Rockfort Quarry area should be declared an area of public water service under the Ontario Water Resources Act.
 4. That Council confirm the retainer of legal counsel experienced in environmental law to bring a report to Council about any appropriate legal proceeding that is available so that a hearing in respect of Rockfort Quarry might take place before a joint board of the Ontario Municipal Board and the Environmental Review Tribunal, or in the alternative before the Environmental Review Tribunal.
 5. That Council instruct staff to review the provisions of the *Clean Water Act* and the applicability of the *Act* to the area to be occupied and affected by the Rockfort Quarry.

6. That the cost of engaging the appropriate legal counsel and consultants to prepare for the Ontario Municipal Board hearing be funded from the Working Fund Reserve to an upset limit of \$500,000.
7. That the estimated cost of \$1.3 million for appropriate legal counsel and consultants in regard to the matters before the Ontario Municipal Board, and any additional costs related to the retainer of environmental law counsel, be referred to the 2009 budget to consider an appropriate funding source for these estimated Town costs.
8. That the Town of Caledon support and maintain a revenue neutral position whereby estimated net costs to the Town and Region of Peel and estimated loss of property values to property owners be fully compensated by JDCL.
9. That financial assurances be provided by JDCL to a yet to be determined level sufficient to completely offset the potential impacts should mitigation measures designed to protect the ground water supply fail, with such assurances to be maintained for the duration of the operation and rehabilitation period.
10. That the Town of Caledon maintain its position that Caledon High Potential Mineral Aggregate Resource Area 9-A as identified on Schedule L to the Caledon Official Plan is appropriately identified as "Aggregate Reserve Lands".
11. That the Town of Caledon remains concerned with certain policy aspects of the final CBSES submitted by JDCL on March 31, 2008, while acknowledging that many aspects of the Study are acceptable, and accepting the position taken by Credit Valley Conservation through its report dated February 20, 2009, that CVC is generally satisfied that the CBSES has been completed within the OMB party process, save except for the items that were intended to be addressed as part of the site specific application.
12. That the Town of Caledon oppose the Rockfort Quarry applications at the Ontario Municipal Board hearing scheduled to commence on May 25, 2009.
13. That the Town inform JDCL that a building permit application will be required for the grout wall.
14. That Report CAO-2009-001 be circulated to all parties and participants to this matter.

ORIGIN/BACKGROUND

In 1998, James Dick Construction Limited (JDCL) applied to the Town of Caledon for an Official Plan Amendment and Zoning By-law Amendment to permit a bedrock quarry of approximately 220 acres at the north-east corner of Olde Base Line Road and Winston Churchill Boulevard. JDCL also applied, at that time to the Ministry of Natural Resources for a Category 2 license for a quarry below the water table. The subject

lands are identified on Figure 1 to this report. These applications have all been referred to the Ontario Municipal Board.



Currently, there are 32 licenced pits and quarries in Caledon that produced a total of 4.7 million tonnes in 2007. The Rockfort Quarry will add 1.5 million tonnes or a 32% increase in total Caledon production in the early years of operation. The proposed

licenced area of 89 hectares will comprise the second largest operation after the Brampton Brick operation.

These applications have had a long and complex history since they were first made in 1998. This has included two previous rounds of technical peer reviews, generally undertaken in the 1999 and 2003 timeframes, and a number of appearances before the Board to address various procedural and legal matters. On November 25, 2003, the Board ruled that the Town's new aggregate resource management policies, in the form of the recently approved Official Plan Amendment 161, should be applied to these applications. This resulted in, among other things, the preparation of a Comprehensive Broader Scale Environmental Study (CBSES) by JDCL for Aggregate Resource Area 9-A and functionally related lands, and the requirement that the site specific studies supporting the application be updated to address new policy requirements.

Since the Board's ruling regarding the applicability of OPA 161, JDCL and the parties have been responding to the implications of the decision. This has included the preparation of the CBSES, and updated site specific studies.

In March 2008, the Board issued an order containing a detailed schedule, which identified key milestones moving forward through the process, leading to a hearing commencement date of May 25, 2009. In accordance with that schedule, JDCL released the final CBSES on March 31, 2008, and released updated site specific reports on July 31, 2008. The agencies (Town of Caledon, Region of Peel and Credit Valley Conservation) retained peer review consultants to complete peer reviews of the revised site specific studies. The peer review reports were released to JDCL on November 21, 2008. In addition, CVC produced a detailed technical review of JDCL's supporting documents and provided this to JDCL along with the above-noted peer reviews, on November 21, 2008.

1. Assessment of Social Impacts Proposed Rockfort Quarry, David Hardy, Hardy Stevenson and Associates Limited
2. Peer Review of the Rockfort Quarry Visual Impact Assessment Report for the Town of Caledon, Eha Naylor, ENVision - The Hough Group Limited
3. Peer Review of the Rockfort Quarry Cultural Heritage Resources Report Prepared for the Town of Caledon, Andre Scheinman, Heritage Preservation Consultant, Caroline Marshall, ENVision - The Hough Group Limited
4. Peer Review of Noise Impact Studies, Rockfort Quarry, John Emeljanow, Valcoustics Canada Ltd.
5. Air Quality Review, Rockfort Quarry, Tony van der Vooren, AMEC
6. Rockfort Quarry Licence Application - Updated Peer Review of Proposed Adaptive Management Plan - Physical Barriers, Trevor Carter, Golder Associates

7. Proposed Rockfort Quarry Licence Application Peer Review, Preliminary Comments on Consultant Addendum Submissions - Water Resources Aspects, Andrew Hims, Jagger Hims Limited
8. Rockfort Quarry Peer Review -Traffic Impact and Haul Route Component, Geri Kozorys-Smith, MMM Group
9. Environmental Impact Assessment & Addendum, Proposed Rockfort Quarry, Mirek Sharp, North-South Environmental Inc.

The Coalition of Concerned Citizens (another party to this matter) also completed peer reviews, as noted below. These peer reviews were provided to JDCL on November 21, 2008, and copies submitted to the public agencies for consideration.

1. Peer Review of Planning and Justification Report, MHBC, July 2008 Warren Sorensen, Sorensen, Gravely Lowes Planning Associates Ltd.
2. Peer Review of the Rockfort Quarry Adaptive Management Plan Lorne Greig and Carol Murray, ESSA Technologies Ltd.
3. Peer Review of Hydrogeological Studies Conducted in Support of the Proposed Rockfort Quarry Ken Howard, University Professor and Groundwater Consultant
4. Evaluation of the Proposed Mitigation Measures for the protection of water resources around the Rockfort Quarry Alex Naudts, ECO Grouting Specialists, Ltd.

Subsequent to the release of the agency peer review reports, meetings between the agency and JDCL peers occurred and various responses were provided by JDCL and further considered.

The Town of Caledon held a public meeting on December 10, 2008 to provide the public with information on the applications, including the results of the initial peer reviews, and to seek public input regarding the applications. The results of the December 10, 2008 public meeting are discussed in more detail later in this report.

In accordance with the Board schedule, following the Caledon public meeting, Credit Valley Conservation, the Town of Caledon and the Region of Peel are to take final positions (in that order) regarding the Rockfort Quarry proposal and the final CBSES. Once final positions are taken, the schedule identifies additional milestones leading up to the commencement of the hearing on May 25, 2009, as noted later in this report.

On February 20, 2009, Credit Valley Conservation received a staff report which provided a detailed analysis of the Rockfort Quarry application, and resolved that CVC oppose the application for the reasons described in the report, and continue to oppose the Rockfort Quarry application at the OMB hearing scheduled to begin on May 25, 2009. CVC also resolved that the CBSES was generally satisfactory, save and except for those items which were intended to be addressed as part of the site specific application. The CVC report is attached as Schedule C to this report.

DISCUSSION

Planning and Technical Review:

In July 2008, Council authorized the retainer of Mark Dorfman, of Mark L. Dorfman Planner Inc. to project manage the Rockfort Quarry file on behalf of the Town of Caledon. This retainer includes coordinating the Town's peer reviews of the technical studies, collaborating with other technical review agencies, particularly the Region of Peel and Credit Valley Conservation, considering input from the public, including the Coalition of Concerned Citizens, preparing reports for the Town, and eventually, preparation for, and attendance at the Board hearing, if and as necessary.

Mr. Dorfman has prepared a detailed report, attached as Schedule A to this report, which summarizes and analyses all factors considered pertinent to the Town's assessment of the Rockfort Quarry proposal and the taking of a final position on the applications and the CBSES. Pertinent factors included, but were not limited to: a review of the final CBSES; the results of the agency peer reviews and subsequent peer-to-peer discussions; Credit Valley Conservation's report of February 20, 2009; the Centre 4 Spatial Economics Report, dated February 25, 2009; a conformity assessment with respect to applicable policies and legislation; and public input, including peer reviews completed by the Coalition of Concerned Citizens, and comments and submissions made during and after the December 10, 2008 Caledon public meeting.

Some of Mr. Dorfman's key findings and conclusions include the following:

1. The proposed Adaptive Management Plan is relied upon by the applicant to monitor groundwater impacts and related environmental impacts arising from the construction of the engineered grout curtain. This plan may be useful as a technical document, but it does not provide value to the implementation of the official plan policies. There are no guarantees that the proponent as the licensed operator of the quarry will be accountable and responsible to the public for the quarry operation but also for the consistent management of this AMP.
2. The traffic and haul route evaluation does not adequately assess social, cultural heritage, visual and land use impacts along the proposed haul route. Consequently, the scale of these impacts to people along the haul route is unknown.
3. The plans do not adequately address social impacts based on predictable, measurable, significant, objective effects on people in the area.
4. There is uncertainty that the extraction of the aggregate resource and the rehabilitation will be able to ensure no negative impacts on wetlands, woodlands, watercourses, habitats, groundwater resources in the areas connected to the aquifer.
5. The evidence indicates that there will be financial impacts not only for the Town and the Region, but that the values of properties in the area will be diminished by the operation of the quarry.

6. The regard for balancing the competing provincial interests in this review, leads to the conclusion that the uncertainties of extraction of aggregate in this location and the construction of the companion grout curtain structure and their attendant impacts will overwhelm the protection and conservation of natural heritage features and functions, the quantity and quality of surface and ground waters, and the built heritage and cultural heritage landscapes.

Based on his detailed assessment, Mr. Dorfman concludes that the applications do not conform to applicable policy and for this, and other reasons explained, the Town of Caledon should not support the Rockfort Quarry proposal and should oppose the Official Plan Amendment, Rezoning and License applications at the upcoming Ontario Municipal Board hearing.

Planning and Development Department staff has reviewed Mr. Dorfman's report and all of the related information, including the peer review reports prepared by the agencies' peer reviewers and the Coalition of Concerned Citizens, and Mr. Dorfman's analysis of the JDCL responses to the peer review reports and subsequent peer-to-peer discussions. Staff agrees with and supports Mr. Dorfman's analysis, key findings and recommendations. While it is acknowledged that aspects of the Rockfort Quarry applications satisfy applicable requirement, significant technical and policy concerns remain. These concerns, coupled with the uncertainties surrounding the proposed mitigation measures and the Adaptive Management Plan and the enormous potential risks (social, environmental and fiscal) should there be a partial or total failure of the mitigation measures, support the recommendation that the Town should oppose these applications.

CBSSES

As noted earlier, the Ontario Municipal Board ruled in November 2003 that the policies of OPA 161 should be applied to and be determinative of the Rockfort Quarry application. One of the additional policy requirements for applications within "Aggregate Reserve Lands", as identified on Schedule L, is the completion of a Comprehensive Broader Scale Environmental Study (CBSSES). As part of the OPA 161/124 settlement reached between the parties and approved by the Board in 2003, the status of Aggregate Resource Area 9-A (within which the Rockfort Quarry application is located) as either "Resource Lands" or "Reserve Lands" was deferred. Notwithstanding the deferred status of Resource Area 9-A, JDCL agreed, on a without prejudice basis, to prepare a CBSSES.

In order to provide coordinated direction to the applicant, the lead agencies (CVC, Town of Caledon and Region of Peel) collaborated throughout the length of the process, starting with the preparation of a "Recommended CBSSES Terms of Reference" in January 2004. This joint approach continued with review of the Draft Parts A, B & C reports (and iterations thereof) produced by JDCL and providing combined agency comments. Extensive discussions between the agencies and JDCL's CBSSES study team occurred during the period January 2004 to March 2008 when the "final" CBSSES was submitted by JDCL. In addition, the Coalition of Concerned Citizens was invited to

participate in the study process, and provided valuable input, including with respect to the design and delivery of the CBSES public consultation program.

The details of the study process, and all agency and public comments and JDCL responses are part of the existing public record, and it is not necessary to repeat them in this report. In general, the process was not without its challenges, but ultimately the final CBSES submitted by JDCL on March 31, 2008 has largely responded to the recommended terms of reference and the agency inputs. As stated in CVC's report of February 20, 2009, in the context of the CBSES policies that were worked out through the OMB settlement process, CVC staff finds, from an environmental perspective, that the CBSES is generally technically acceptable, save and except for those items which were intended to be addressed as part of the site specific application.

From the Town's perspective, given that CVC lead the agency collaborative with respect to the technical/environmental aspects of the CBSES, the Town is satisfied with CVC's conclusions, insofar as they go. There are elements of the study that are not technical in nature, such as policy interpretation and implementation recommendations. Again, the applicant has, in large part, responded to the agencies inputs in this regard, however there are aspects of policy interpretation that the Town is either not fully satisfied with (for example the lack of a social impact component) or that relate to the Region of Peel Official Plan, and require the Region's final position to be taken before it is known if those areas are satisfied.

Further, the report contains implementation recommendations (for example relating to the Comprehensive Adaptive Management Plan, or CAMP) that would place significant responsibilities (staff resources and financial) on the public agencies, particularly CVC. The agencies requested that the CBSES address implementation options, including appropriate administrative and financial structures to address long term needs, and the model put forward could be worth investigating in the future. However, other potential implementation models are not outlined, for example, a model that would require private developer financial contributions to CAMP implementation, or independent third party implementation with some form of joint overview. In accepting the CBSES as generally satisfactory from a technical perspective, the agencies are in no way endorsing the proposed implementation model or satisfied that other potential models have not been explored.

As a general comment, the policies in OPA 161 which enable a proponent-led CBSES process were established as part of complex, multi-party negotiations relating to the OPA 161/124 settlement agreement. With the hindsight of the past four years of experience, the Town may wish to consider reviewing the CBSES policy framework at some point in the future, including the efficacy of a proponent-led process.

Environmental Protection Legislation

Planned activities at the Rockfort Quarry could have an enormous adverse impact on people and the natural environment. For example, JDCL's proposed activity at the site depends upon the successful long term operation of a huge permanent engineered structure referred to as a grout wall. JDCL claims that this grout wall would moderate

the environmental impact of the quarry during the proposed 30 years of extraction and 50 subsequent years of rehabilitation. According to the Part B CBSES Report, the so-called unmitigated, or “worst-case” scenario would cause widespread and completely unacceptable impacts.

JDCL will need several approvals from the Ministry of the Environment to operate the Quarry. These include a section 9 certificate of approval under the Environmental Protection Act to authorize air emissions from the site, such as dust and noise. The massive dewatering (removal of groundwater) will require a water taking permit under the Ontario Water Resources Act. It is not appropriate for the Ontario Municipal Board to evaluate the planning issues in isolation, assuming that all the resulting impacts can be mitigated by appropriate conditions subsequent Ministry of the Environment permits. In this case, appropriate mitigation may not be possible after the fact. If so the Ministry of the Environment might ultimately refuse the necessary permits, preventing the Quarry from proceeding after a great deal of money has been unnecessarily spent on the OMB hearing. In this unusual case, the proposed Ministry of the Environment approvals should be evaluated at the same time as the planning issues.

In addition, the environmental impact of the proposed Quarry could be so large and so significant that the Quarry planning applications should not be reviewed only by a tribunal that deals principally with development applications but the applications should be simultaneously reviewed by a tribunal such as the Environmental Review Tribunal. Accordingly the Town should make every legal effort to bring these environmental impacts to the consideration of a tribunal such as the Environmental Review Tribunal or to a joint board composed of representatives of both the Ontario Municipal Board and the Environmental Review Tribunal. It is recommended that Council authorize the retainer of legal counsel experienced in environmental law applications before the courts to bring a report to Council regarding any appropriate legal proceeding that is available so that a hearing in respect of Rockfort Quarry might take place before a joint board or before the Environmental Review Tribunal.

For example, the impact of the quarry may disrupt the private wells in the area and require the Region to provide a municipal water supply to the residents at significant public expense. It is therefore recommended that the Mayor should be authorized to request the Minister of the Environment to have his staff ask the Environmental Review Tribunal to hold a hearing on whether the Rockfort area should be designated as an area of public water service under section 74 of the Ontario Water Resources Act. Such a request would trigger an automatic hearing by the Environmental Review Tribunal, and would therefore underpin the application of the Consolidated Hearings Act.

Because the environmental impacts regarding this Quarry could be so significant, it is recommended that Council authorize the Mayor to communicate with the Minister of the Environment and request that the Province of Ontario designate the Rockfort Quarry under section 3 of the Environmental Assessment Act. Section 3 of the Environmental Assessment Act provides that Act applies to “*major commercial or business enterprises or activities or proposals, plans or programs in respect of major commercial or business enterprises or activities of a person or persons*” where these enterprises are designated by the regulations made by the Province of Ontario. Environmental assessment requires

a proponent to justify the need for its undertaking and whether it could take place in other locations with less environmental impact. If the current provincial government were to make a regulation which designated the Rockfort Quarry as an enterprise to which the Environmental Assessment Act applies, then a full environmental assessment would be required of Rockfort Quarry. If so, the OMB hearing presently scheduled would likely be premature. Equally important, the Rockfort quarry could not proceed (regardless of the decision of the OMB) unless the environmental assessment was ultimately approved by the Minister of the Environment and the provincial Cabinet.

Because the potential environmental water impacts regarding this Quarry cannot be overstated, it is recommended that Council instruct staff to review the provisions of the *Clean Water Act* and the applicability of the Act to the area to be occupied and affected by the Rockfort Quarry. The CTC Source Water Protections Committee under the *Clean Water Act* is working to identify the sensitive supplies of drinking water for the CTC Source Protection Region (including Caledon) (refer to the presentation to Council by Mark Schiller, Director of Water, Peel Region on 10 June 2008). Council, pursuant to section 8 of the Act, may consider passing a resolution identifying the appropriate area in the vicinity of Rockfort Quarry as an area of supply of drinking water which is under threat from quarrying operations. Such a resolution would require the work of the Source Water Protection Committee to evaluate the area as a supply of water and to evaluate the nature of the threat and to make recommendations in this regard.

FINANCIAL IMPLICATIONS

Schedule B to this report prepared by the Centre for Spatial Economics (C4SE) is a detailed analysis of the potential financial impacts of the proposed Rockfort Quarry. The C4SE analysis details:

1. The impact of quarries on property values
2. The impact of Rockfort Quarry on study area property values
3. The financial impact of the Rockfort Quarry on the study area (additional revenues, additional costs, net financial implications related to the quarry)
4. The financial impact if the mitigation measures fail

The financial impacts are quite substantial for the Town of Caledon, the Region of Peel and property owners in the area of the proposed quarry.

Immediate attention must be given to the proposed budget of \$1.3 million in legal, planning and consultant costs related to the site application and OMB hearing in 2009. The Town has \$500,000 earmarked in the Working Fund Reserve to cover the funding for these initial costs. The entire \$1.3 million is included in the proposed 2009 budget with a proposed funding scenario to be approved as part of the 2009 budget. In addition, should Council authorize the retainer of environmental law counsel, further costs will be incurred.

In the context of legal costs, Council should also bear in mind that the OMB may approve the requested Official Plan Amendment and Zoning By-law Amendment and quarry license applications or in the alternative, the OMB may approve the amendment

and license applications with the conditions relating to water taking permits and certificates of approval. In either event, further applications will be made by Rockfort Quarry for the required water taking permit(s) and the certificate(s) of approval to the Ministry of the Environment. Council may wish to participate in the approval process in respect of these applications. This participation will involve further consultant and legal costs. Such costs could be reduced if the issues of the water taking permits and the certificates of approval were addressed by one tribunal hearing all the relevant applications under the Ontario Water Resources Act, the Environmental Protection Act, and the Aggregate Resources Act.

The C4SE reports also refer to costs to be incurred by the Credit Valley Conservation (CVC) and the Region of Peel for legal, consulting and staff costs in 2009 plus regional capital improvement costs for road infrastructure upgrades. An estimate of costs is provided for potential fire protection services, additional operating budget costs relating to the existence of the quarry and annual costs to oversee the effectiveness of the proponents' adaptive management plan mitigation procedures. These costs are expected to be incurred from 2009 for approximately 80 years to cover the quarry operational and remediation periods. The present value of these costs for the Town, Region and CVC is estimated to total at least \$14.6 million and possibly \$27.9 million.

The C4SE report also details information about additional property tax and production fee revenues for the Town and Region; the decline in property tax revenues for the Town and Region due to a decline in property values in the area due to the quarry; property value decline for owners within a five kilometre radius of the quarry.

The C4SE report estimates the following due to the quarry:

1. Additional costs of municipal services for the Town, Region and CVC to-date and the present value of future additional costs is estimated to be between \$17.9 million and \$31.2 million
2. The present value of net revenues to Peel and Caledon is less than \$3 million, reflecting the present value of the gain in tax revenues from the site (\$6.1 million) minus the present value of the property taxes lost due to property value declines (\$3.3 million)
3. The net financial position of Peel and Caledon together fall well short of the present value of between \$17.9 million and \$31.2 million of additional costs to be borne by municipal agencies in the area.
4. Property values in the study area of the quarry (Caledon and Erin) are estimated to decline by an estimated value of over \$43 million (Caledon estimated at over \$26 million)

Additional financial impacts are detailed should mitigation measures designed to protect the groundwater supply fail. Potential impacts include:

1. Replace lost groundwater supply to residents within a 2 km radius of the site (new wells estimated cost between \$1.5 million and \$1.9 million – Caledon estimated cost between \$0.9 million and \$1.1 million)
2. Impact within a 2 km radius on vegetation, topsoil, subsoil, natural habitat, stream flows, water drainage patterns and further property value declines for property owners in the area (financial value unknown)
3. Catastrophic contamination could affect the entire Town's property values (financial value unknown)
4. Mitigation failure should the property end up in municipal ownership (financial value of mitigation unknown)

Financial assurances to maintain revenue neutrality are required by the Town, Region of Peel and property owners. The estimated amounts are at a minimum of between \$17.9 million and \$31.2 million for the Region and Town and a minimum of \$43.4 million for the property owners. In addition, financial assurances would be required to offset the potential impacts should mitigation measures designed to protect the groundwater supply fail. The amount of this assurance would need to be calculated at a future date. These amounts are likely to be significant but they are indeterminable at this point in time. These financial assurances should be in place at the commencement of the excavation and be maintained in place during the entire time that the grout wall (the principal mitigation feature) is in place; that is during the 30 years of excavation and the 50 subsequent years of rehabilitation.

At the time the C4SE report attached as Schedule B was prepared certain data sets were unavailable. The report is sound as written and can be relied upon without these data sets, however for completeness, when these data sets become available the report will be updated.

In the process of development of a site for any industrial purpose the applicant is required to secure Town of Caledon approvals for the issuance of the building permits for buildings and structures. In this case, an examination of the definition of building in the *Ontario Building Code Act* would indicate that a grout wall may fall within this definition, and accordingly a building permit application and the payment of the applicable building permit fees would be required.

NEXT STEPS

Next steps set out with respect to the Ontario Municipal Board schedule are as follows:

1. Region of Peel taking a final position on the Rockfort Quarry applications and the CBSES: March 26, 2009 report to General Committee; April 2, 2009 report to Regional Council.
2. OMB Pre-Hearing Conference (Procedural Order with Issues List): March 30-31, 2009.

3. Witness Statements: April 24, 2009.
4. Reply Witness Statements (if any): May 11, 2009.
5. Expert meetings to scope issues and prepare agreed statement of facts: Completed by May 15, 2009.
6. Hearing commencement: May 25, 2009.

Next Steps Regarding Environmental Protection and other Legislation:

7. Mayor to communicate with the Minister of the Environment for the purposes identified in this report.
8. Environmental law counsel to be retained for the purposes outlined in this report, including reporting back to Council as soon as possible.
9. Commence a review of the applicable provisions of the Clean Water Act for the purposes described in this report.
10. Town to inform JDCL that a building permit application will be required for the grout wall.

CALEDON COMMUNITY WORK PLAN

Not applicable.

POLICIES/LEGISLATION

Applicable legislation has been referenced in the body of the report.

The Rockfort Quarry Official Plan Amendment, Zoning By-law Amendment Category 2 License applications are before the Ontario Municipal Board.

CONSULTATIONS

The first public meeting regarding the Rockfort Quarry applications was held by the Town of Caledon on September 3, 2003. Information regarding the applications was presented by JDCL representatives and members of the public and Council provided input.

JDCL organized and hosted a Public Information Forum on June 28, 2005. The purpose of the Forum was for JDCL to present the draft Part A Report to the public and provide an opportunity for the public to participate in the study. The format consisted of an Open House component with display boards, where members of the public could directly interact with the thirteen members of the JDCL CBSES study team that were present. This was followed by presentations and a public question and answer period. Copies of

the Draft Part A Report were made available to the public in electronic format, and hard copy format through various publicly accessible locations.

Between 2006-2008, the lead agencies and JDCL, with input from the Coalition of Concerned Citizens, jointly organized and delivered further public consultation events regarding the CBSES, consisting of two Public Information Forums held on January 27, 2007 and January 22, 2008, and “Objectives” Workshop on February 27, 2007. These events were facilitated by an independent public facilitator, and provided an opportunity for members of the public to receive information and provide input regarding the draft Parts A, B and C Reports, and contribute to the development of “Objectives” to be incorporated into the final CBSES. These events were well attended, with between 100 and 200 people attending both of the Public Information Forums, and 81 registered public participants in the Objectives Workshop. The results of these events were documented in Summary Reports produced by the facilitator and made available to the public, distributed to participants and posted on the Town’s website.

The Town of Caledon held a final public meeting on December 10, 2008 at which Town staff and Mr. Dorfman presented information to the public regarding the applications, including their current status, the CBSES process, the results of the initial peer reviews and the upcoming process schedule as set out by the Ontario Municipal Board. The meeting was then opened up for public comments and questions, beginning with prepared presentations by JDCL and the Coalition of Concerned Citizens, and was concluded with questions and comments from members of Council.

The December 10, 2008 public meeting was attended by an estimated 200+ members of the public. Meeting minutes with copies of the prepared presentations attached, were produced and made available to the public and posted on the Town’s website. The minutes are attached as Schedule D to this report. At the meeting, the Coalition of Concerned Citizens provided Council with copies of over one thousand letters of objection they had collected and submitted to the Ministry of Natural Resources. Following the meeting, another 36 written submissions were received by the Town, with all but a few expressing concerns with the proposal. Although the full discussion is recorded in the meeting minutes, a number of key themes/concerns were evident, including:

- Social impacts: on people, their properties and quality of life;
- Concerns about potential impacts to private water supplies;
- Fiscal impacts, e.g. loss of property values, costs to agencies and residents;
- Financial risks associated with potential failure of mitigation and need for financial assurances;
- Risk of groundwater contamination;
- Environmental impacts associated with the potential failure of mitigation;

- Enforcement and compliance issues;
- Safety;
- Economic viability of proposed mitigation.

The peer review reports prepared by the Coalition of Concerned Citizens were also considered an important input from the public, and have been reviewed and taken into consideration by the public agencies.

Adjacent upper and lower tier municipalities in Wellington County and Halton Region and other relevant public agencies have been kept informed of this application during the course of the process and have been invited to participate and provide comments. Input from adjacent municipalities has been limited. The Niagara Escarpment Commission has been actively monitoring the file and has provided input at certain points, particularly into the CBSES, which included lands within the Niagara Escarpment Plan Area. There has been limited to no involvement of Provincial Ministries since the OPA 161/124 settlement was reached in 2003.

ATTACHMENTS

Schedule A: Report from Mark L. Dorfman, entitled “Planning Assessment Rockfort Quarry, James Dick Construction Limited (JDCL), Applications to amend Caledon Official Plan and Zoning By-law, Application for Category 2 License under Aggregate Resources Act, Part of Lots 1, 2 and 3, Concession 6, W.H.S. (Caledon)”, dated March 3, 2009.

Schedule B: Report from the Centre 4 Spatial Economics, entitled “The Potential Financial Impacts of the Proposed Rockfort Quarry”, dated February 26, 2009.

Schedule C: Report from Credit Valley Conservation, entitled: “CVC Position on Rockfort Quarry”, dated February 20, 2009.

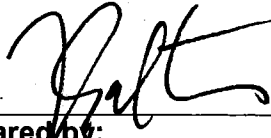
Schedule D: Minutes of Rockfort Quarry Public Information Meeting, Town of Caledon, December 10, 2008

CONCLUSION

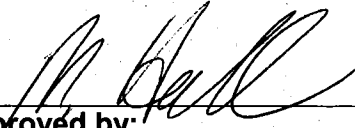
The recurring conclusion of reports, consultations and studies indicates that the environmental, social and financial impacts of the proposed quarry remain uncertain.

This quarry could have a major impact on the environment, potentially causing irreversible damage in Caledon, and surrounding communities. Additionally, there remains unknown financial implications to landowners and the municipality, as well as the uncertainty of the effects on social, cultural and heritage uses.

The impact of this quarry operation to all of Caledon, and neighbouring communities, remains undetermined; therefore the recommendation is to oppose this application.



Prepared by:
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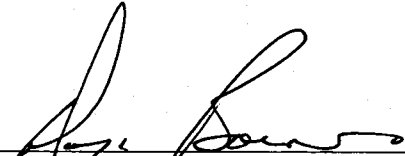
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