

Bulletin #28 December 2016



"They also serve who stand and wait."

REDC took the slow lane this year and cut back on some of our public activities while we took stock. Over the past 6 years, preparation for the proposed Blueland Farms/McCormick Pit on Heart Lake Rd. has been the main focus of our work. Early on we retained legal and environmental experts to prepare our case. Since then environmental reviews of the property have reduced land available for extraction by half. The original 2010 licence application to MNRF to extract aggregate from the 100 acre property, 75 ft below the water table, lapsed and was withdrawn 2 years later.

In 2012 Blueland presented its proposal to Caledon's Planning Department. It sought Official Plan and by-law changes that would allow as many as 80 trucks an hour in prime extraction season on Heart Lake Rd. This Town road is designated a no truck route by the municipality. The application came to a standstill and became inactive. But it has not lapsed.

It remains on the Town of Caledon books due to a bylaw that allows payment of an annual inactivity fee to cover administrative costs. And as a consequence, a sign advising of a request for by-law changes continues to be posted on the property.

The proponent who has paid the fee has done so under duress and is appealing payment at the OMB. In the meantime the property has gained a sturdy new fence and there has been talk of raising cattle as a stop gap measure.

In the past we have been assured by local politicians that Heart Lake will remain a road closed to truck traffic as per by-laws. But since then a new Council has been elected. Even if road designation remains as is, we are aware that, although the extraction area is now reduced and so may not be economically attractive to the current owner, it can be sold to a locally based Ontario company whose immediately adjacent aggregate operations have the means to legally transport gravel off site and have a water taking permit for gravel washing. We have learned that James Dick Construction Ltd has been in talks with the Town about this site.

More waiting: Hidden Quarry Hearing postponed indefinitely

CRC (Coalition of Responsible Citizens) centred in Rockwood, a village southeast of Guelph, is doing some standing and waiting of its own. Their challenge to the James Dick Construction Ltd-Hidden Quarry brought about a spectacular coalescing of local residents, noted environmental experts and activists that live within the area affected by the proposed development along with political support from a number of neighbouring municipalities, as well as their Region and their own township.

CRC's presentation of its opposition to the Quarry was compelling and after much study and discussion the various Councils denied JDCL the permission it required to operate in the various jurisdictions. The proponent brought the case before OMB. After 3 prehearing sessions, the case was to be heard in October 2016 and anticipated to last for approximately 7 weeks.

On the first day of the Hearing it was indefinitely postponed. Turns out the Guelph-Eramosa Township (GET) by-law that was being disputed by the proponent had been repealed by the Township earlier in the year. The company will be required to re-apply to GET Council for re-zoning under the new bylaw and only if that is refused, can it return to the OMB with a petition containing correct by-law information. Read more in the [CRC media release](#) and also the [OMB decision](#).

One bright light – in addition to a very successful round of non-stop fundraising, CRC has received several significant grants from nearby municipalities.

Show me the way to the next Water Taking Permit

On June 1st this year Olympia Sand and Gravel, a consortium of local investors, finally got its MNRF issued licence #625402 to extract gravel from the 293 acre Melville Pit. CAMP, Citizens Against the Melville Pit, are eager to participate in the mandated Public Liaison Committee (PLC) with a citizen component made up of 2 CAMP members plus an expert of their choosing as well as 2 resident members from the local community. [CAMP reps had been left out of the PLC in Olympia's original submission and restored by the OMB.] Technically this should happen by December 1, 2016, 6 months after the licence was granted by MNRF, according to the OMB order.

The aggregate operation does not have a Permit To Take Water (PTTW) to wash its gravel. Water taking was very much the bone of contention during the OMB Hearing last year. So where is the nearest aggregate operation with a PTTW? Answer: About 6K south of the west edge of Melville Pit, on regional road 136 (Porterfield Rd.). It's Alton Sand and Gravel owned by JDCL.

CAMP reports that the 100 acre lot located along the southern boundary of the Melville Pit has been also purchased by JDCL this September.

The ownership of a PTTW is a very valuable commodity nowadays as increasing scientific knowledge and public understanding of the limits of an until now abundant water supply have made us more sophisticated in examining commercial demands on our water.

Lafarge is not asking for a PTTW in its Limebeer Pit proposal to extract aggregate adjacent to Green Lake in Caledon. It can have the gravel processed and washed at an adjacent pit nearby which does have a PTTW.

And the McCormick Pit one day could have its gravel processed and washed at the adjacent JDCL facility.

Centralizing washing facilities may reduce the need for PTTW's but it doesn't mean less water is used unless washing facilities are equipped with expensive technology that reduces the amount of water taken.

A Moratorium on Water Taking - changing Public Policy

This past October the Ministry of Environment and Climate Change (MOECC) circulated a draft Regulation that would create a moratorium, from the end of 2016 to January 1, 2019, on permits to take water (PTTWs) for bottling purposes. [This was posted on the EBR Registry for public comment](#).

REDC reviewed the document. From our interpretation of the mandate we understand that during the moratorium, MOECC is planning to investigate how to limit harm to and depletion of the province's water supply by regulating the issuance of PTTW's with greater selectivity and oversight. We found this an encouraging opportunity to further our own agenda.

The Regulation was stimulated in part by the dedicated advocacy of Wellington Water Watchers and the Council of Canadians in collaboration with Ecojustice in the [Nestle case](#). In addition, for many years environmental groups like ours have been putting pressure on government to re-examine the circumstances under which water can be taken for commercial purposes.

To stop Nestle from extending its licence to increase water taking during a period of area wide drought restrictions, the objectors represented by Ecojustice and the two activist organizations invoked the [Public Trust Doctrine](#). This is a legal doctrine which asserts that the Crown holds water resources in trust for the People.

Following in these footsteps and pushing the envelope a little further, REDC recommends that the proposed moratorium on PTTWs for bottled water be used to critically examine the legal theory governing the assignment of these permits generally. We urge that all PTTW's in a given subwatershed be reviewed against the criterion of cumulative impact on the water resources of the area.

This will require substantial modifications to the process used by the MOECC when permit applications are considered. It calls for a system of review by which potentially competing claims for water can be weighed against each other and against the cumulative effect of them all on our water resources collectively. Examples of such competing claims can rise from municipalities, aggregate developers, water bottling plants, golf courses, farms, industrial plants etc.

Currently no coherent legal basis for such comparison of claims exists and we urge that the MOECC undertake the development of such a legal foundation in the interests of justice.

Link here to REDC's Comments to the EBR:

['Permits to take water in Ontario: policy considerations and recommendations concerning the Government of Ontario's proposal to enact a new regulation on bottled water'](#)



Many Thanks for your support, donations, emails and updates throughout the year.

On behalf of the President and Board of REDC our very best wishes for the festive season ahead.

Christine Shain, REDC Communications and Strategy

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