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Monday 7 May 2012

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Lundi 7 mai 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 Orazietti
Clerk: Sylwia Przezdziecki

Président : David Orazietti
Greffière : Sylwia Przezdziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 7 May 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Lundi 7 mai 2012

The committee met at 1406 in room 228.

SUBCOMMITTEE REPORT

The Chair (Mr. David Orazietti): Good afternoon, folks. Welcome to the Standing Committee on General Government. Our first order of business is to adopt the subcommittee report. Can I have somebody read that into the record?

Mr. Mike Colle: Mr. Chair, I'll read the standing committee report into the record.

Your subcommittee on committee business met on Wednesday, May 2, 2012, to consider the method of proceeding on its review of the Aggregate Resources Act (ARA) and recommends the following:

(1) That the committee invite the following experts to provide a technical briefing on the ARA to the committee on Monday, May 7, 2012, during its regular meeting time: staff from the Ministry of Natural Resources; authors of the consolidated report titled State of the Aggregate Resource in Ontario Study (SAROS); and Mr. Gord Miller, Environmental Commissioner of Ontario.

(2) That each of the three above-mentioned experts be offered up to 30 minutes for their presentations, followed by up to 30 minutes for questions by committee members.

(3) That the committee hold public hearings on the ARA in Toronto, at Queen's Park, on Wednesday, May 9; Monday, May 14; and Wednesday, May 16, 2012, during its regular meeting times.

(4) That the committee invite the Ontario Stone, Sand and Gravel Association and the Association of Municipalities of Ontario to present to the committee on Wednesday, May 9, 2012; and that each of these two organizations be offered up to 15 minutes for their presentations followed by up to 15 minutes for questions by committee members.

(5) That the remaining four 15-minute time slots on Wednesday, May 9, 2012, be offered to groups who have to date registered a request to appear with the committee, and that these groups each be offered up to 10 minutes for their presentations followed by up to five minutes for questions by committee members.

(6) That any group or groups who have to date registered a request to appear with the committee that cannot be accommodated on Wednesday, May 9 be offered a time slot on Monday, May 14 or Wednesday, May 16, 2012, for their presentation.

(7) That the clerk of the committee, with the authorization of the Chair, post information regarding the committee's business (public hearings on Monday, May 14 and Wednesday, May 16, 2012) once in the Globe and Mail, the Toronto Star, L'Express, the Ottawa Citizen, Le Droit, and the Sudbury Star newspapers as soon as possible.

(8) That the clerk of the committee, with the authorization of the Chair, post information regarding the committee's business (public hearings on Monday, May 14 and Wednesday, May 16, 2012) in English and French on the Ontario parliamentary channel, on the Legislative Assembly website, and with the CNW newswire service.

(9) That interested people who wish to be considered to make an oral presentation on the ARA review should contact the clerk of the committee by 5 p.m. on Wednesday, May 9, 2012.

(10) That, following the deadline for receipt of requests to appear on the ARA review, the clerk of the committee provide the subcommittee members with an electronic list of all the potential witnesses who have requested to appear before the committee.

(11) That, if required, each of the subcommittee members provide the clerk of the committee with a prioritized list of the witnesses they would like to hear from by 12 noon on Thursday, May 10, 2012. These witnesses must be selected from the original list distributed by the clerk of the committee.

(12) That groups and individuals be offered 10 minutes for their presentations, followed by up to five minutes for questions by committee members.

(13) That the deadline for receipt of written submissions on the ARA review be 5 p.m. on Wednesday, May 16, 2012.

(14) That the clerk of the committee, in consultation with the Chair, be authorized to commence making any preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

Mr. Chair, I move this report of the subcommittee and move that it be adopted.

The Chair (Mr. David Orazietti): Okay. Further debate or comment on the report? Mr. Coteau.

Mr. Michael Coteau: As you're aware, the subcommittee report before us has been produced as a result of a subcommittee meeting that took place last Thursday, May 3. The purpose of the meeting was, in part, to set the committee's schedule for the remainder of the legislative session and to discuss logistical matters related to the

upcoming hearings. It is unfortunate indeed that this meeting is not the first time the public is hearing about the contents of last week's subcommittee meeting. Instead, we all got to read about it in a press release put out by the member for Dufferin–Caledon on the weekend. The press release was entitled "Liberals and NDP Block Public Participation in ARA Review." The press release reads as follows:

"(Queen's Park)—This week Liberal and NDP members of the Standing Committee on General Government undertaking the review of the Aggregate Resources Act (ARA) teamed up to block travel outside Toronto and only set aside four partial days for public participation.

"Sylvia Jones, MPP, Dufferin-Caledon, expressed concern with the decisions. 'Four partial days of hearings is not sufficient to allow for meaningful public participation,' Jones said. 'In the last election the McGuinty Liberals promised that an in-depth review would take place and that there would be ample opportunity for public participation.'

"'Clearly the Liberal government has broken this promise, and I am concerned that municipalities, industry representatives and residents most familiar with aggregates, residing in communities where aggregate extraction occurs, will be left out of the process.'

"'We have an obligation to hear from the experts and they don't live in Toronto,' Jones said."

It later goes on to suggest when those dates will be and how people can connect with the Legislative Assembly to make a deputation.

We all got to read about the subcommittee's meeting in both the Caledon Citizen and the Orangeville Beaver. Both papers wrote stories—

Ms. Sylvia Jones: Orangeville Banner.

Mr. Michael Coteau: Both papers wrote stories as a result of the member for Dufferin–Caledon's press release. The story in the Citizen had the following headline: "Debate Limited on Aggregate Resources Act Review, Jones Says."

We then got to hear more about it this morning when the member for Haliburton–Kawartha Lakes–Brock stood in question period to discuss the deliberations of the subcommittee. Here's what she said:

"Again to the minister: Your Liberal members of the committee, as well as the NDP, blocked my suggestions to have extensive hearings—which you promised during the election—on the ... act."

I have two issues with what inspired in the press and one that transpired this morning in the House. First and foremost, what these two Conservative members have told the public about our subcommittee meeting of last week is simply not accurate. They do not accurately reflect what either the Liberal or the NDP members of the committee said or agreed to. We do not oppose having the committee travel and we did not oppose having the committee meet for more than four days.

Second, these two Conservative members violated a very important rule of this committee and this Legislature, which is that the discussion of in-camera proceedings are to remain private until such time as they are reported to the committee and to the House.

As members, we have an obligation not to break the rules in this House and not to deliberately mislead the public and other members of the House, all for the purpose of political gain.

I'd ask the PC members of this committee to correct the record, or else I'll have no choice but to move forward with a formal complaint to the House.

In addition to that, I have a suggested amendment for the actual subcommittee report, which I'm hoping I can address afterwards. But at this opportunity, perhaps my colleague from the NDP has comments to add.

Mr. Rosario Marchese: Yes, I do, unless the—

Ms. Sylvia Jones: There is a speakers' list.

The Chair (Mr. David Orazietti): I've got that. Thank you very much.

Mr. Coteau, any further comments on that? You said you had an amendment.

Mr. Michael Coteau: I'd like to move my amendment. That would be great.

The amendment would be to add a number 15 to the minutes or at least the committee report, and it's that the committee agree to review the deputation dates and possible committee travel based on community interest.

The Chair (Mr. David Orazietti): Thank you, Mr. Coteau.

Mr. Rosario Marchese: Mr. Chair, just a few quick remarks—

The Chair (Mr. David Orazietti): I've got a list here.

Mr. Rosario Marchese: Put me on the list, Chair.

The Chair (Mr. David Orazietti): We'll get to it.

Ms. Scott, you had your hand up first.

Ms. Laurie Scott: Okay. I, too, had a motion to move. We did have a long subcommittee report. The dates of the hearings were published. The reaction from the limited debate came from the publishing of the dates that they were going to be limited to. I tried to articulate at length in the subcommittee meeting that this was a large undertaking that was going to occur and that we should have more meetings and they should be moved outside of Toronto. It was a very lengthy subcommittee meeting. The dates were going to be made public. They have to be advertised; correct? So the dates were made public.

I, too, have motions to add to the subcommittee on general government that don't reflect the long deliberation we had and the explanation of why we needed to go to on tour and why this committee needed to have a longer time to process. So if I can read those two motions—these would be amendments:

That the Standing Committee on General Government—

The Chair (Mr. David Orazietti): Do you know what?

Ms. Laurie Scott: No? Do you want me to hand them out?

The Chair (Mr. David Orazietti): Just comment on Mr. Coteau's motion about the amendment to the sub-

committee report. We'll deal with that and then we'll deal with your amendments.

Ms. Laurie Scott: Okay. So just what is your amendment in full again? I didn't write it all down.

The Chair (Mr. David Orazietti): Do you want to read that again, Mr. Coteau?

Mr. Michael Coteau: It is that the committee agree to review the deputation dates and possible committee travel based on community interest.

Ms. Laurie Scott: So, possible travel, I would certainly—

The Chair (Mr. David Orazietti): Which I think reflects the spirit of the subcommittee meeting that I was at or presided over. Do you want to comment on that?

Ms. Laurie Scott: It was also commented at that meeting that four days were enough to do that review of the ARA. So, agree to travel, we would like. When I'm able to read the amendments I'd like to do to the report, I want to certainly add that travel has to be done on this committee, but I'm not allowed to do that right now.

Mr. Michael Coteau: I've already done that. Mr. Chair, I'd just like to read it one more time because—

Ms. Laurie Scott: You didn't say, for sure, travel.

Mr. Rosario Marchese: Can you take my view and then go back and forth to the others, please?

The Chair (Mr. David Orazietti): Ms. Jones, on this motion?

Ms. Sylvia Jones: Yes.

The Chair (Mr. David Orazietti): Go ahead.

Ms. Sylvia Jones: While I very much appreciate the fact that you wanted to read my press release into the record, the member from Don Valley East must be able to see that the standing committee subcommittee clearly makes no reference to hearings beyond these four days of partial hearings that we have already reviewed in subcommittee, and, more troublesome, there is no reference to travel. In fact, even with your amendment suggested in 15, you say "possibly perhaps." Those are hardly words that I take any kind of comfort in hearing.

As for the fact that you are suggesting that I have done something wrong as an MPP by notifying my community about when public hearings have begun, which by the way was three days from the press release, is absolutely ludicrous. If there is anything that we have a responsibility to do as MPPs, it's to make sure that our members and our communities are aware of what's happening in Queen's Park.

The transparency of the subcommittee and the fact that they were trying to put four days with the equivalent of 12 hours of deputations—everyone must have realized that that was not going to be sufficient. We need to be able to travel across Ontario, where extraction is taking place, where communities can actually provide their input and, quite frankly, their expertise, because I must say, I question the members from Don Valley East, Eglinton–Lawrence and Mississauga–Brampton South knowing enough about the background of aggregate extraction in the province of Ontario to actually have a reasonable discussion on this ARA review.

The Chair (Mr. David Orazietti): Further comment? Mr. O'Toole.

Mr. John O'Toole: Thank you very much.

The Chair (Mr. David Orazietti): I saw his hand and then yours.

Interjection.

The Chair (Mr. David Orazietti): Yeah. His hand was up prior to yours. Go ahead.

Mr. John O'Toole: I'm here primarily to support my colleagues here but, more importantly, my riding, which is Uxbridge, Scucog and Clarington. It's a very important part of the extraction, as well as some other issues. I hope this is in context to the motion here, and I take that as a friendly addition that you're adding. The point is that for our ridings—for the most part, outside Toronto—resource extraction is a huge deal. As a courtesy to the participants there, I think that's important that members of the committee could learn.

I want to add one more additional thing. I want to be assured by the committee, and in fact the government members, that under this ARA review the whole issue of commercial fill will and should be addressed.

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I have spoken with Minister Gravelle on this on several occasions. I've had questions in the House on it. I have order paper questions, as well as a notice of motion on the order paper. There are several articles in the Globe and Mail and other commercial media indicating how important and timely including rehabilitation is.

If the members on the government side don't know what I'm referring to, this is a current issue before the courts with no clear direction from the province. That needs to be included in the discussion on the ARA review.

I put that out as a question. I'm looking forward to a response and a confirmation that that will be part—

The Chair (Mr. David Orazietti): We're on Mr. Coteau's motion right now, so we're going to deal with that first. I appreciate your interest in other areas of the review.

Mr. Marchese?

Mr. Rosario Marchese: I want, for the record, to say that I was disappointed in the question that Laurie Scott asked in the Legislature. We had discussed this in subcommittee and we said, "Let's see what reaction we get from the public after the four days of hearings," and we did not exclude at all the possibility of travelling and having more days. So while Laurie might have heard that four days is a lot that we commit to either a review or any bill, historically, under the Tories and under the Liberals, if more time was needed, we were quite prepared to do that. I had given my commitment to Laurie that we would review this at subcommittee later on this afternoon, and to be fair to the Liberals, they said as much.

I find the politicization of this issue troubling. I have to say this.

So I'm going to say to the mover of the motion: Let's accept the way the subcommittee report was drafted. Let's get back to our subcommittee, because we were

going to review, based on what we had heard, what we were going to do by way of more hearings and/or travel, to which Liberals and New Democrats are quite amenable. Don't introduce your motion at the moment, because having this debate here is not as useful, given that we have speakers whom we agreed to listen to. Otherwise, this will drag on, allowing these poor folks—maybe that's why they're here, to listen to this debate; I don't know. But I think they're here to listen to the Environmental Commissioner and the ministry. Then we'll move on to our subcommittee and deal with the other matters.

I think that's the best way to approach this—and try to do it as fairly and as decently as I think we're doing as a committee.

Interjection.

The Chair (Mr. David Orazietti): The motion is on the floor, so—

Mr. Mike Colle: Can I speak to the motion?

The Chair (Mr. David Orazietti): Yes, go ahead, Mr. Colle.

Mr. Mike Colle: Mr. Chair, as the parliamentary assistant to the Minister of Natural Resources, I just want to be very unequivocal. The minister is very clear that he wants full, wholesome meetings across the province, whether it be in Wawa or whether it be in Windsor, whether it be in Kawartha Lakes.

This committee can decide wherever it wants to go, as is usually done by subcommittee, and the ministry is in full support of wholesome meetings in any community the committee feels fit to go to. That was my impression about this process: that it was going to be an open and very lengthy and wholesome process.

Again, like the member from Trinity–Spadina, I'm a bit disappointed about the political gamesmanship. We don't need it. That is why I also want to put on the record that it was sort of a cheap shot to talk about how the members here may not come from your area of the province; we come from Toronto and the GTA. I want to let you know that you can't judge people by where they come from. I spent five years of my life walking across the Oak Ridges moraine, the greenbelt, all the way from the escarpment to the Northumberland highlands. I am quite familiar with some of these issues. I'm not an expert, but don't write us off unless you really give us a chance, please. That's all I say, Sylvia. I'm more than willing to learn. I do have some knowledge; not as much as you, perhaps. Please give us a chance.

The Chair (Mr. David Orazietti): Just on the motion that's before us, as the individual who was chairing the subcommittee meeting from last week, I thought there was very clear and concise support for additional days, should additional days be required and should the committee be required to travel. If there was some kind of internal breakdown between members in the Conservative caucus about what was communicated—I'm also very disappointed that Ms. Scott would suggest that the committee was not prepared to travel or that the committee was not prepared to have additional days.

Mr. Rosario Marchese: David, you, as the Chair, are getting carried away. You shouldn't—

The Chair (Mr. David Orazietti): Mr. Marchese, you have had your say on this matter. I was chairing the subcommittee meeting, and I think you've also articulated that our understanding at the subcommittee meeting was to have additional days and to travel. No one ruled out travel, and that was an understanding that I would assume Ms. Scott would have communicated to her caucus, indicating that that option was there. You asked us if you had our word on that and the committee unanimously consented to do that. So I am very, very disappointed in seeing this information that is misleading on what the subcommittee decided. It absolutely misled what was taking place last day.

Mr. Rosario Marchese: You were the Chair—

The Chair (Mr. David Orazietti): I understand and I was there. I clearly recall what took place.

The matter is before us. If you want to vote on the amendment to reflect that—because obviously it was not communicated.

Mr. Michael Coteau: Mr. Chair, I'll withdraw—we do have a lot of people in the room who have come here to present. I'd like to refer the amendment to the subcommittee that's meeting at 5 o'clock today, I believe. We can have that discussion then, but I think MPP Marchese is absolutely right to suggest us moving forward, considering that we do have presentations scheduled for today.

The Chair (Mr. David Orazietti): Mr. Coteau has withdrawn the motion to amend the subcommittee report. We'll leave the subcommittee report till 5 o'clock. Fair enough. Get on with the presentations.

Ms. Sylvia Jones: Just so I'm clear, we don't vote on the subcommittee report, but we proceed with hearing from Gord Miller, the Environmental Commissioner, and then we break at 5, the subcommittee members go into subcommittee and then we will vote on this—when? On Wednesday, when we reconvene? Because that's four hours out of 12 hours.

The Chair (Mr. David Orazietti): We will vote on the subcommittee report as presented right now. We are agreeing to meet at 5 o'clock to further discuss subcommittee business.

Ms. Sylvia Jones: Well, I can't support the subcommittee report as written.

The Chair (Mr. David Orazietti): Ms. Campbell.

Ms. Sarah Campbell: I'd like to ask for a 20-minute recess.

The Chair (Mr. David Orazietti): Twenty-minute recess.

The committee recessed from 1428 to 1447.

The Chair (Mr. David Orazietti): Okay, folks, let's take a look at the subcommittee report one more time. A 20-minute recess was called, so the first order of business now is to call for a vote. No further debate on the report. So I'm going to ask for a vote to accept the subcommittee report as presented. All those in favour? All those

opposed? It's carried. The subcommittee report is adopted.

AGGREGATE RESOURCES ACT REVIEW

ENVIRONMENTAL COMMISSIONER OF ONTARIO

The Chair (Mr. David Orazietti): All right. Let's move to our first order of business then: Mr. Gord Miller. Welcome to the Standing Committee on General Government. Thank you for taking the time to be here today.

Mr. Gord Miller: Is there one of these I should prefer? That's the one lit up, over there.

The Chair (Mr. David Orazietti): Either one is fine.

Mr. Rosario Marchese: No, this side, this side, Environmental Commissioner, so I can hear you.

Mr. Gord Miller: Middle-age challenge, eh?

Mr. Rosario Marchese: It's getting worse.

Mr. Gord Miller: It's a pleasure to be here, Mr. Chair. I've been working on these files for a very long time—for a long time before I was Environmental Commissioner—so I'm very pleased to have this opportunity.

The Chair (Mr. David Orazietti): Mr. Miller, thank you very much. You've got an hour for your presentation. We'd like, as indicated in the subcommittee report, about half an hour for your presentation and half an hour for questions and comments among members, about 10 minutes for each caucus. You can start. Simply state your name for the purposes of Hansard. You've done this before, so go ahead and start.

Mr. Gord Miller: Certainly. My name is Gordon Miller. I'm the Environmental Commissioner of Ontario. Again, I thank you for the opportunity.

I'm going to start by saying that a review of the ARA is necessary. Issues related to aggregate production have been the focus of much activity in the Environmental Commissioner's office over many years, driven by substantial public concern and frustration. I have reported to the Legislature on matters relating to the ARA 17 times in my 12 years of tenure.

Let me first acknowledge that aggregates are absolutely necessary for the functioning of our society. We use something on the order of 175 million tonnes per year and we will continue to do so, but we must do it in the most sustainable way possible to protect our cultural heritage and the ecological functioning of our landscape. But there certainly are problems, and many of the problems are confirmed by the MNR itself. There are also opportunities for improvements that will improve or mitigate the environmental impacts and lessen the social strife associated with siting and operating these facilities, while assuring that we have sufficient aggregate available at a reasonable price to sustain a vibrant economy.

But before I get on with some specific observations on the topics listed in your agenda, there is one aspect of aggregate resource management and the ARA that has to be clarified. The ARA itself is quite short and does not contain a lot of detail with respect to the actual administration processes involved in aggregate extraction. Much of the detail on what is required to site, operate and report on compliance of a pit or quarry is set out in what are called the provincial standards, which are specified by regulation, and also the aggregate procedures manual, which is a policy document utilized by MNR staff. The provincial standards are straightforward enough, but are markedly out of date, having not been updated since 1997. The manual is reasonably current, but it consists of 700 pages of material and refers to 180 policies and procedure, so it's quite complex. The point is, most of the problems and complaints that you will hear about in these hearings, from myself, municipalities, citizens and even the industry, arise from matters laid out in the provincial standards, and to some extent the manual, not the act per se. This is not to say that the Legislature cannot change the act to solve problems; of course it can. It's just important to note that you'll have to look at the provincial standards, at least, to fully understand the scope and nature of the problems.

There's another matter that must be addressed off the top of this presentation. There are three arguments that have been used for decades now to justify the present regulatory system with all its flaws. They are sure to be raised again in this review, so I would like to give you my observations on their relevance and validity.

The first is that aggregates must be excavated close to market. The big market for aggregates is the urban development of the greater Golden Horseshoe, of course. It always makes sense to minimize haul distances, because almost all the stuff moves by truck. The problem is that everything wants to be close to the major urban centres, and in the past 20 years there have arisen many competing residential and commercial land uses. Pit and quarry applications are being pushed onto the last remnants of natural and cultural heritage, usually in proximity to residential neighbours. This is a formula for conflict, and we have many. But the argument that we must extract close to markets is moot anyway, because most, almost all, the stuff has been extracted or is under licence and will be gone in a decade or two. The new resources of significant quantity are further away, and we need to get the discussion back to how we are going to get that material into the urban centres with minimal energy use and greenhouse gas emissions, and that might involve something different than trucks.

The second argument that's used is that aggregate extraction is an interim use of the land. The implication of this interim use argument is that it trivializes the impacts of extraction and implies the land will be returned to the same use. It also implies a short period of time over which there is a disturbance. Both concepts are misleading. There are some pits that start as agricultural land and after extraction have been rehabilitated back to similar use, but this is not the norm. Because of the competitive pressure for land, pits now are often rehabilitated to residential or commercial developments. Quarries, by contrast, permanently and profoundly re-

structure the land, its hydrology and its living systems. There is nothing interim about them.

Commonly today, both pits and quarries are extracted to depths below the water table. The long-term results on abandonment is a small lake largely sterile of aquatic life. Turning land into a lake is not an interim use. I submit that the decision to license a parcel for major aggregate extraction is, in almost every case, a multi-decade or permanent alteration of the nature and capacity of the land, and the decision should not be trivialized because of a mythology that it is an interim use.

The third argument is that need cannot be a criterion of the approval process; that is to say, the need for the aggregate. In the 2005 provincial policy statement, it says that "demonstration of need for mineral aggregate resources, including any type of supply-demand analysis, shall not be required, notwithstanding the availability, designation, or licensing for extraction, of mineral aggregate resources locally or elsewhere." That's right in the provincial policy statement. Some municipalities have argued that they wouldn't approve any other land use without full and open justification of need. Even in areas of the province where the municipality and the public know there are ample reserves, the municipality cannot require an applicant to demonstrate need. Why not? If there are large areas under licence, shouldn't it be reasonable to consider when we're asked to sacrifice a rare element of our natural heritage or some aspect of our cultural heritage?

The background to this is that the best aggregate deposits are not spread evenly across the landscape. The geology is patchy. Some municipalities happen to sit on top of excellent deposits. Those municipalities are obliged to keep huge portions of their landscape open to aggregate resource for the benefit of other areas and the larger public interest. As a result, we get clusters of aggregate operations, the so-called Swiss cheese syndrome, with holes across the landscape. Some parts of Ontario are pockmarked by bare and exposed land for decades. It makes the issue much more contentious.

I submit that if the province will not allow need to be considered, which results in clustered operations, then there must be a corollary. The province has the responsibility to examine the cumulative environmental effects of those clusters of pits and quarries. I do not see those cumulative effects being considered under the current planning and approval process.

This is what I recommended in my 2008-09 annual report to the Legislature: "that MNR's existing commitment to consider its" statement of environmental values "and cumulative effects during instrument decisions should also apply to instruments issued under the Aggregate Resources Act." I'm sorry to say that the Ministry of Natural Resources declined to comment after I made that recommendation.

With those comments to start, I'm going to turn my attention to the topics laid out in the committee's agenda, the first of which is the act's consultation process.

Certainly, a key factor is that the public must have trust in the process. That's a key need to the whole thing, and I suggest that that is limited at this time. The approval process is difficult for the public to understand and to navigate. The approval process excludes much municipal control. It can control zoning, but not other aspects. Changes in the legislation, particularly in the areas of community engagement procedures and the site plan amendment process, are needed.

New licences, changes in licence conditions and some plan amendments are, in fact, posted on the environmental registry for public comment, but there have been problems here, because there's a process in the ARA and the provincial standards which requires notification and, within a 45-day period, filing objections and complaints; and then we have an Environmental Bill of Rights posting which reaches a much broader audience. The two processes are made to run concurrently. The Environmental Bill of Rights posting is usually 30 days. What has been happening is, MNR has been posting the EBR postings late, and the public is seeing that they have 30 days to comment on the EBR—they don't realize the 45 days is running out, the clock is ticking, and they lose their ability to file a complaint because they're misled by a confusing process. We've had many complaints about that over the years.

With regard to siting, the aggregate resources provincial standards clearly need a review and update. The stated purpose of the ARA is to minimize the adverse environmental impact of agricultural operations—that's right in the existing act—while managing Ontario's aggregate resources to meet provincial, regional and local demand. The act requires the decision-maker to consider the effect of the proposed operation on the environment. That's in the act. But in contrast and perhaps in contradiction, the provincial standards and the manual do not require comprehensive assessment of environmental impacts. They require only certain aspects of the environment to be considered in the technical reports submitted.

The ECO agrees with many of the comments that suggest MNR update the 1997 provincial standards to reflect recent changes in provincial laws and policies and to address public and stakeholder concerns. Some of the matters covered in the policy manual should be incorporated in the provincial standards by regulation in order to make them enforceable. MNR should make the final text of the manual available on its website and ensure that the public is able to access further revisions and updates. It is a confusing process for the public.

There are a couple of odd exceptions, as well. The Aggregate Resources Act decisions should conform to the Oak Ridges moraine conservation plan. In fact, they have never been required to do so. The aggregate procedures manual says, "The ARA is not specifically prescribed under the" Oak Ridges Moraine Conservation Act. MNR should merely "have appropriate regard to its requirements when making decisions on the issuance of, or amendments to, licences and wayside permits under the ARA." I believe this is a serious gap in the implementation of the Oak Ridges moraine conservation plan and frustrates the intent to place special conditions on

aggregate operations on the Oak Ridges moraine, which was the intent of the Oak Ridges moraine legislation. I believe that MNR's ARA decisions must conform to the Oak Ridges moraine conservation plan and I urge the ministry to resolve this implementation gap.

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Another point: Aggregate extraction impacts the land beyond 120 metres. If you look at the provincial standards, the requirement is to notify landowners within 120 metres, and then there's the general requirement to put an ad in the paper, etc. But we have seen time and time again that the extraction process strongly influences the surrounding landscape in a more profound way.

Notwithstanding my 17 references and my extensive reporting on this, I'm going to refer you to a recent decision of the Ontario Municipal Board, often called the Rockfort quarry decision. It was on November 2010 that the OMB gave this decision, and it re-emphasizes what I'm talking about in terms of the impact on the landscape—a point that I've been making over the years.

Quoting from the OMB decision, just a couple of examples: "It is also for [the proponent] to demonstrate that any impacts on adjacent land use would be satisfactorily mitigated.

"The board finds that [the proponent] has not met the requirements of these policies.... The area is rural and [the proponent] has not demonstrated that a 'fundamental change' to the traffic pattern in this rural area is either acceptable or able to be adequately mitigated."

The point is, we see the OMB looking at a much greater aspect on landscape—in this case, traffic, and it goes on to talk in similar comments in the next section on noise and the fact that the—and I'm not criticizing the proponent here, by the way. The proponent was addressing the application in accordance with the provincial standards, what they were asked for. The proponent goes forward in good faith, and the board is finding, "Wait a minute; it's much bigger." The effect on traffic is much greater, the effect of noise is much greater and, most significantly, that OMB report went into cultural heritage aspects and found that the measures put in place, changing the landscape, would be unacceptable.

If I may quote again, "The board finds, as a fact, based on the evidence before it, including that of the town's peer reviewer, that the replacement of the existing rural views with a six-metre high berm is the definition of unacceptable impact."

So I speak to the failing of the provincial standards to get those issues on the table. They had to go to the OMB, and in fact this particular decision was against the proponent and this particular facility was turned down.

Go to another example: Source water protection, which of course is an activity in recent decisions of the Legislature, is not addressed in the aggregate resources procedure. Just to cite an example, in April I got a complaint from a citizen regarding the fact that the MNR had just licensed a pit for reuse in a well protection zone in a municipality in the Sudbury region, and the Nickel District Conservation Authority had not even been contacted. So here we have a designated source protection, well protection zone, and an aggregate pit just opens up and nobody's told, including the conservation authority that's in charge, of course, of source protection. So these exceptions and anomalies in the legislation could be cleaned up, I think, in this review.

Let's talk about operations. Since 1997, the aggregate industry has operated on essentially a self-inspection basis, submitting annual compliance reports to the ministry and posting them in municipalities. After MNR's inspectors stopped inspecting all sites annually, under some of my reports we reviewed that and they gave me a promise they would try to review 20% of their operations annually; 20% made sense because there's a five-year statute of limitations on offences. So if you're reviewing 20% a year, you'll generally catch most things that are going on. In fact, the next year they didn't make their 20%; they were around 10%, 12%, and the next year they reported and they'd only made 10% or 12% again. I criticized them each time for that, and now they've told me they won't tell me how many they inspected each year. So that problem is solved in some respects.

With regard to compliance, the compliance concerns at existing sites are widespread. Both the public and municipalities find this very frustrating. In fact, in 2006, to their credit—well, in 2003 citizens on the Environmental Bill of Rights filed a request for review of a range of matters in the operation of landfill sites and the ministry worked on it for almost three years and reported in 2006 and admitted to a number of shortcomings. It's actually a very good document in terms of revealing the shortcomings in aggregate resource management in the province, things like, in compliance, they reported that they did an inventory of 121 sites under that review and 100 were found not to be in compliance. That's a pretty high amount of non-compliance.

In April 2004, one municipal council threatened to refuse any further zoning for aggregate extraction, asserting that MNR had abandoned its best interests in the township. Through 2003-04, I recommended that the MNR ensure that the aggregate industry operates in compliance with existing rules and that the ministry demonstrate to the public that its compliance and enforcement programs for this industry are working effectively. We're all these years later—that was 2003-04—and we still have the same problems.

I have raised the fact that the capacity of the Ministry of Natural Resources to manage resources is largely in question. Again, as many of you members know, I have raised this publicly, the fact that MNR just doesn't have the troops to do the job. This is a serious job. It is worth noting, I think, that in that review in 2006, MNR itself noted: "Lack of staff and visibility in the field by inspectors has resulted in an increase in illegal operations and numerous complaints to MNR field staff." But, going back to the Ontario Municipal Board decision regarding the Rockfort quarry, I think there's an interesting quote there. The board said, "The board will not approve an aggregate proposal which leaves an issue like the protection

of the natural environment to be dealt with by a third party with demonstrably inadequate resources, like MNR...."

So here you have that the failure of the process of MNR has resulted in this company—and again, no reflection on this company. They were quite sincere; they went forward with the proposal. It was reviewed, but the process didn't do them any favours. They spent a tremendous amount of money and didn't get a quarry. Again, the board is recognizing that this is a primary problem. And it goes on; the board goes on at length. I suggest that you consider it; it's on page 71, by the way, of the decision, if anybody wants to take a note.

Let me give you another example of things that come to my attention. It's written up again in my 2009-10 report. MNR has the ability to exempt a site from the Aggregate Resources Act in certain conditions, if they issue a certain order, if in fact the main purpose of the aggregate extraction is not for the sale of aggregates.

I reviewed one particular piece of property where the Aggregate Resources Act—a verbal exemption was given to this one property owner to modify agricultural land, to make it more suitable for agriculture. That seems reasonable, on the face of it. There wasn't the appropriate order issued as was required by the act, but that extraction went on for 12 years, and 160,000 tonnes of sand was taken off that site—quite an agricultural modification. But it just showed the abdication of responsibility, and I would attribute that as well just to lack of the resources to be on top of such things.

With regard to rehabilitation of the land, when the Aggregate Resources Act was amended, I think it was in 1989, one of the big features of the new act was that it was going to have rehabilitation mandatory, and progressive rehabilitation mandatory, which is rehabilitation as you go. That was to be built into the site plans. When my office looked at the—and this is old data, but this is when we last looked. Between 1992 and 2000, the average number of hectares disturbed by aggregate operations was more than double the area rehabilitated. So, clearly, the rate of rehabilitation was in no way keeping up.

In an ideal world, one would expect, more or less, the amount of rehabilitation to be keeping up. Now, there is some loss, because areas that are going to be ponded later—become lakes—interfere with the data a little bit, but nonetheless, the rate of rehabilitation is clearly not up to speed. We have a larger and larger amount of landscape; it's open each year as it goes.

There were changes in the fees some years ago, in 1997, to provide more fees, more money, for a number of things, including rehabilitation, but it remains a challenge to rehabilitate these aggregate sites. It remains a challenge to get the inspectors out there to site them or to give them rehabilitation orders, because there aren't enough.

One special account of rehabilitation: When the fees were set aside back in 1997, they took a half cent per tonne and they gave it to an organization referred to as TOARC. Their job is to take that half cent per tonne and rehabilitate historic sites that were not rehabilitated back in the day. Now, these are sites which are often orphaned, if you like. They're on people's land, but the people who own it didn't cause the problem. They were never closed, back in the day when we didn't require them to be properly rehabilitated.

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This is a good program. I cast no aspersions on it, other than: A half cent is not doing the trick. A half cent gets you about 45 sites a year. There are thousands of these sites. Increasing that to two cents would give you four times as many sites or more. It's not a lot of money relative to the price of aggregate, but it's certainly an area that could do with a lot of improvement. We could get a lot more of these scars on the landscape cleaned up.

In light of that, just to summarize, in 2006-07 I recommended that MNR improve the rehabilitation rates of the Ontario pits and quarries by introducing stronger legislation with targets and timelines, by applying up-to-date rules to grandparented licences, and by further strengthening the ministry's own field capacity for inspections. Again, "grandparented licences" refers to the fact that when the act came in back in 1989, there were a lot of existing rehabilitation problems, but we're years and years down the road from that. We should be going back, we should be cleaning up those licences and requiring them to have progressive rehabilitation plans from now, but again that takes human power.

One of your titles is Best Practices and New Developments in the Industry. There is a lot going on, I'm pleased to say, outside of the regulatory framework. You'll probably get some presentations on this. It doesn't relate to the act, but you should know that to the credit of a number of the companies and some of the environmental groups, many, many discussions are going on. I loosely call it the "green gravel concept," but they're coming to agreements on standards of operation, which will have some kind of endorsement or label that will signal to the purchaser that progressive, more sustainable procedures are being followed. So that's good stuff happening outside of the regulatory area, and we should just know about that.

But let me talk about the concept of fees. As I say, the fees were amended, I guess, some years ago. Oh, no, I'm sorry; 2007 was the last fee amendment. It previously hadn't been amended for 17 years. As to the actual dollar amount of fees, the industry is much better to talk about that than I am, but I think it's important that when you consider fees and royalties, you consider it in this light. It's easy to bring the discussion of regulating the aggregate business in line along the lines of what we have with the TSSA on our gas handling thing. The TSSA goes and checks all the gas stations and the tanks, and pressure-tests the tanks and tests the elevators and all that kind of work that's a necessary regulatory cost that keeps the businesses safe and functioning, and those are charged directly back to those respective industries, as they should be. So one could conceive that in your deliberations you say, "Well, is there money here that could be

put on a levy to run all aspects of regulating and pay the cost of all aspects of regulation?", and there very well might be and you should have a look at that with the industry. But I want to emphasize this: There are two components to the responsibility here. In my mind, it's easy to conceive of a TSSA-type funding organization that would look after all the inspection and that sort of stuff, but there is a whole other level of planning that's required in Ontario with respect to aggregates, and that is the long-term planning of our aggregate conservation and utilization for future generations and the fact that we're going to be hauling this from further away, and it's up to the aggregate companies. They can't create rights-of-way on rail or even rights-of-way on the road. They can't create shipping opportunities by boat. They're just aggregate companies; they produce aggregate. If there is to be planning on how we get these resources into the city that reaches out 10, 20 and 30 years, that has to be done within the Ministry of Natural Resources under the current mandate, and that is money that's not funded from industry fees. That's investment that the province of Ontario has to make into the long-term management of this valuable and necessary resource.

So I just want to emphasize to the committee that if you do go down the road of "Where does the money come from?", running the business can be—the money, I think, can be levied off the per-tonnage production, but the long-term planning and the necessary transportation issues require a long-term investment in a planning unit which is integrated in the transportation unit of the government of Ontario. So I'd like you to think in terms of those two pools of money.

Let me talk about aggregate resource development and protection, including conservation and recycling. As I described in my introduction, land use planning rules are strongly weighted to allow pits and quarries almost everywhere in Ontario, even on the Niagara Escarpment. From 1985 to 2006, no application for a new or expanded pit in the Niagara Escarpment plan area was turned down. The question of need, as I mentioned, is specifically excluded. But we shouldn't be planning our industry on a cornucopia of new pits that constantly supply all the aggregate we need. That is not responsible to future generations; it's fraught with conflict and problems, and there are huge opportunities in recycling that are before us that should be encouraged. In fact, there are a lot of good-news stories which relate to recycling. The Ministry of Transportation does an excellent job recycling a lot of its aggregates. Certainly up where I come from in northern Ontario, they have to—it's just the nature of the business—but even in the south.

But we have problems. In the GTA, there's conflict and problems with respect to recycling. We have huge piles—if you go out near the airport, you'll see some of them—throughout the GTA. These are piles of suitable recyclable material, asphalt and other materials that are ready for reuse, but there is no compulsion to market. Although some municipalities extensively use this material and have no problem—and the Ministry of Transportation readily uses recycled material—there are many municipalities who insist on virgin material, and so we are accumulating recycle piles, which of course is undesirable, and we're not maximizing that opportunity.

Similarly, there is conflict on the landscape with respect to the approval of recycling activity within aggregate resources sites. So if you have a pit or a quarry and you want to do some recycling, sometimes there is local resistance from the municipality and citizens. Now, some of it's legit. I should say off the top that, you know, there is concern that a pit might be exhausted of its resource and then used forever for recycling; that's a zoning concern of municipalities and such. I think that's easily handled if you just say, "If there's no more virgin material in a pit, pull the licence." It's not an aggregate pit anymore; it becomes a municipal zoning issue, right? It's just for land use. But I think the concept of aggregate recycling is fundamental.

I would actually propose to you, with respect, Mr. Chair, if you guys would look at the purposes of the act, you will see there is a purpose to be concerned for the environmental impact. But I suggest you may consider that the purposes be increased along the lines of, "A purpose of this act is to help conserve Ontario's aggregate resources and to increase the recycling and reuse of aggregates in Ontario." That will set the tone clearly for the Ministry of Natural Resources to approve these recycling facilities properly within these licensed properties and set the tone going forward, but this is the intent, that we're going forward as a society and we're going to maximize utilization of that. So—

The Chair (Mr. David Orazietti): Mr. Miller, that's pretty much the time. I know we're going to continue the discussion here with questions, but if you want to just take 30 seconds and wrap up, that would be great.

Mr. Gord Miller: That's good. I was just going to summarize some of my past recommendations, but they're already before the Legislature, so I'm pleased to take questions.

The Chair (Mr. David Orazietti): Okay. Thank you very much for your presentation.

The Conservative caucus is up first; we've agreed to 10 minutes from each caucus, so go ahead. You have the floor, Ms. Jones.

Ms. Sylvia Jones: Thank you very much. Excellent presentation. You've triggered a couple of questions I wanted to ask.

You specifically raised source water protection and how currently there is no notification necessary to the various conservation authorities. Would that not have been appropriate to be an amendment when the Source Water Protection Act was actually debated and introduced? Shouldn't it have been at that point that we would trigger what other pieces of legislation were impacted?

Mr. Gord Miller: I think that would have been the appropriate time, but it was obviously missed, for whatever reason. Part of the problem would be, of course, that at the start of the source water protection legislation, we didn't know what kinds of activities would be prob-

lematic within well protection zones and various source protection zones. It wasn't always evident, so a little bit of uncertainty there. But certainly, yes, that would have been a good time to include it.

Ms. Sylvia Jones: Okay. My next question is related to your comments about rehabilitation. I am familiar with the half-cent fee that ends up rehabilitating spent quarries, spent pits; a pretty successful program, from what I'm seeing.

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Mr. Gord Miller: Oh, yeah.

Ms. Sylvia Jones: My question is, I don't believe the fee is actually set out in the act, so—

Mr. Gord Miller: No, it's in regulation.

Ms. Sylvia Jones: So it wouldn't be part of the—okay.

Mr. Gord Miller: My first point is that many—almost everything you're going to run into is in the regulations.

Ms. Sylvia Jones: Is in the regs, okay.

Your last point about conservation and recycling—and then I'll give others an opportunity. For the recycling component: When you're talking about pits currently, would that be another separate-and-apart approval process? How would you go about setting that up?

Mr. Gord Miller: It's on the licence of the property, so it's often now—those properties have been previously licensed so they have to be amended to allow it. It could be done in the initial—if it's a new licence, it could be incorporated into that. I would suggest that it should be part of the standard conditions of the process, and it was. But—yeah.

Ms. Sylvia Jones: Similar to rehabilitation as part of one of the—

Mr. Gord Miller: Yeah.

Ms. Sylvia Jones: Okay, thank you.

The Chair (Mr. David Orazietti): Mr. O'Toole, go ahead.

Mr. John O'Toole: Thank you very much, Commissioner. I really appreciate that very much. As I said earlier, my riding is very much home to much of what you call clustering on the Oak Ridges moraine. As well, there's a lot of environmental awareness etc. on both sides of the issue. I think Uxbridge is a classic community that has worked with you and others to find the right solutions.

You did mention in your presentation the consultation process itself, the public trust. Do you see any opportunity here for—even when I was a municipal councillor, it was always exempt because it was under the pits and quarries act or the Aggregate Resources Act; it was a provincial interest, even to the extent that the greenbelt excludes oversight of the provincial initiatives through its need to build the 407 through the greenbelt and all that stuff. Could you comment on that in a general sense, give some direction to the committee?

Mr. Gord Miller: We come from a simpler time, in terms of the roots of these things. I was critical of this concept of close-to-market and no arguments about need and such things, and I remain so. I can see where they came from out of the 1980s, when this was done. I just don't think it's appropriate for the time.

I think our municipalities have much more sophisticated land use planning. They should be given more discretion in this regard, especially the municipalities that are in the vicinity of the big demand, say the GTA. We have sophisticated municipalities that have sophisticated planning. I trust them to take a greater role in the siting, because they have very little role now.

Mr. John O'Toole: That's all the more reason I think we should talk in those communities about the next step. It is a resource for the province of Ontario, not unlike the Ring of Fire, if you will.

On the section that I do want to put on the record, section 6 of the act itself: It talks about rehabilitation. My concern, as you know—I've talked to you and others. I don't what to dominate that, but that becomes the longer-term "What do we do now?"

Do you have any comment with respect to—I've talked to the last two natural resources ministers, who are the natural owners of this. What are the rules for moving commercial fill? There needs to be clarity. Many of the communities that we're talking about—lower-tier communities—haven't got the resources to do the proper testing, traffic flow logistics. Have you got something to add on that?

Mr. Gord Miller: Yes. This is a tough area, Mr. O'Toole, because it overlaps at least two major jurisdictions. The sort of hauling of materials, some of which are waste and some of which tends to fall under the Ministry of the Environment—some of these clean fill materials don't really have any provincial regulations—

Mr. John O'Toole: Control.

Mr. Gord Miller: —and control whatsoever. Then we get into virgin material in these aggregate sites. So it is a complex area, and it is worth, I think, turning attention to it at some point. There have been, I know in the Ministry of the Environment, at least four attempts—I wrote up a technical paper on this at one point—to deal with what is clean material and what is not and how it should be handled. But it's mostly fill, and this act deals with extraction. So right now we've got it separated into different boxes, but it really is trucks driving around with large amounts of aggregate material in them, right?

Mr. John O'Toole: It comes under the title of rehabilitation, in my view.

Now, I see Ms. Grier here, the former minister. I would suggest, though, that during my time as a councillor, the Ataratiri land was being developed for affordable housing. All of a sudden, it was closed because it was deemed that the soil was contaminated. Now that soil, because of the Pan Am Games, is in my riding, all over. There must be 30 locations where they're randomly moving commercial material.

I think there are a lot of really good operators, but I think we need to have clear rules and functions for the Ministry of Natural Resources, because MOE doesn't get involved until there's been a violation of some sort. No

one is in the skill set to determine what the violation is without spending thousands of dollars on testing. I know this isn't productive in terms of the ARA itself, but I think it's an important part certainly for the proximity to market, because that's where all the empty pits are, close to market—they've already used it up. So I just put it on the record: I expect to see some of that occur during the hearings.

Certainly Uxbridge, I know, would be a willing host community to hear about existing, ongoing, and then community uses of those properties. The best golf course, certainly, in this area, Windance, is an old abandoned quarry. I'll leave that there on the record. Thanks for the time.

The Chair (Mr. David Orazietti): Ms. Scott, go ahead.

Ms. Laurie Scott: Thank you very much for appearing here today before the committee as we're getting started. I think it gives us a lot of background.

One of the questions that we had is, when you referred to the close-to-market, which is very much brought up in the SAROS report, I didn't know if you had a recommendation of what that number should be when it's close to market—how many kilometres.

Mr. Gord Miller: Close-to-market is a concept; it's not a number. As I say, it's essentially moot anyway, because the close-to-market stuff is essentially tied up in existing licences and will run out in the next couple of decades, or it already has been extracted.

What we see, let's say close to the GTA, under current applications, are relatively small deposits and the last few locations that they've found without tremendous conflicts on the landscape. I could qualify that and say there are sometimes some special deposits of aggregate materials. I'm not talking about that; I'm talking about just general pits and quarries.

I think it's not useful to constantly follow that argument anymore, because we're going to have to haul large volumes from far outside of our traditional supply areas. I see that the real discussion is: How are we going to get them in? We have the Carden Plain on the northeast, and you're going to roll how many more trucks down the 404 and the Don Valley Parkway? And that's the only option there. On the west, we're all aware of the controversy, but again, the proposals to bring aggregates from a long ways away.

Those are the kinds of discussions we should be having, because it's about where we're going to get our aggregates from and how we're going to get it into the city 10 and 20 years from now, not fighting over the last little pockets that are close in. They're almost moot.

Ms. Laurie Scott: You mentioned that the consultation process is difficult for the public to understand, and I think we all realize that. Do you have any recommendations of maybe how it can be done better?

Mr. Gord Miller: There are a number of general recommendations over the years, but I think the first thing we've got to do is coordinate the provincial standards process with the EBR process much better. The provincial standards only require notification within 120 metres and an ad in the newspaper. The EBR, of course, is much more widely open to comment and exposes across the whole province. I think there should be much better coordination there.

I think the 120 metres is an unreasonably short buffer area because, as I implied—which comes as well out of the Rockfort decision—the impacts on the landscape are much greater on any landscape than 120 metres from the site. We've seen a lot of conflict arise simply on that problem, that people legitimately are saying, "Well, you didn't tell us. We're the nearest neighbours," and it's "Well, you're more than 120 metres, so we didn't have to"—that kind of thing. Those are some simple things that would broaden the spectrum to allow more interaction with the public. I guess those are the top ones.

The Chair (Mr. David Orazietti): That's a good spot to stop. Thanks very much, Mr. Miller. We're going to move on to the NDP caucus.

Ms. Sarah Campbell: In your presentation, you spoke about how a lot of the aggregate material that is located close to the markets will be exhausted in a period of a decade or two, and then you also spoke about a recipe for conflict with extracting some of that material close to these markets. Can you elaborate on this recipe for conflict that you spoke about and also how you think it would be different to extract the material in other parts of the province?

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Mr. Gord Miller: In terms of conflict, we have a number—off the top of my head, I can think of four. I was subpoenaed to testify before one of the OMB decisions. We had about four ongoing OMB decisions. I'm not quite sure on the detail. There may be more. All of them are very heated and they consume tremendous amounts of effort on behalf of the companies, who have to spend—the companies will tell you, and they are right to complain, that it takes them 10 years to get an approval for an aggregate site, at a tremendous cost, and the citizens will tell you that it's incredibly frustrating and draining on resources to go to these hearings, some of which go on for a year.

One of the ones I was called to went on for a year and then they cut it off, so it's not resolved yet, I don't believe. It's a tremendous effort, and it represents—why is there conflict? The kind of conflict I see, in a general case, is because we're looking for pockets of usually quarried stone, which has the highest value, within a landscape that now is occupied to a much, much greater degree than it used to be. Twenty-some years ago, when they devised this kind of approach and legislation for aggregates, there wasn't the intensive use of the rural countryside; there wasn't the intensive residential development; there wasn't any commercial development, for that matter, so you didn't have the degree of conflict. Now you do.

In almost every one of these cases, you end up with a small parcel of land being sought for an application with near neighbours, with environmental impacts that have to

be discussed or mitigated, and road transportation, the character of which will change with noise and such. All of these things are happening. Plus, you have the cumulative effects that occur in some of these areas like Caledon, Puslinch and various communities that have contributed more than their share of aggregates, and now they're going in and taking the last bits and things. That's the nature of it.

There are a lot of aggregates—the industry will tell you it's not as good, and so be it—if you go up to the Carden Plain, which is up in the Lake Simcoe area, up to the north and east. There's a lot of aggregate up there. There's a lot under licence and things. Volumetrically, when you're consuming 175 million or 180 million tonnes a year, you're making some big holes in the ground, and it's far better to be efficiently operating in a big area with known controls and a system of transportation of the stuff than it is to open up 10, 20 or 30 small pits that are going through all sorts of back routes in small communities. I think the future is there.

The biggest quarry in the province is up on the end of Manitoulin Island. In its biggest year, they excavated six million tonnes. That's no small quarry. Most of that goes to the United States, but it could go to our market, so there are other opportunities. That's all moved by water.

Ms. Sarah Campbell: Thank you.

The Chair (Mr. David Orazietti): Mr. Marchese.

Mr. Rosario Marchese: Thank you, Commissioner. That was very comprehensive, but I still have a few questions.

If we're going to have to get new resources for aggregates from further away, that clearly makes a case for conservation and recycling, obviously. We understand that the UK is doing a better job—

Mr. Gord Miller: Tremendously.

Mr. Rosario Marchese: —and surely we can learn something from them, first; and secondly, why aren't we doing it?

Mr. Gord Miller: A very good point, Mr. Marchese. Just a brief thing, though: First of all, the recycling is driven by waste. In the UK, for instance, they put a big levy on, say, construction and demolition waste. It's very expensive to move construction and demolition waste. So, all of a sudden, you find, in new buildings going up in London, that in some cases up to 70% of the materials are being reused on site when they demolish an old building because it costs them; they'd have to pay—that would be under environmental legislation in our model, not under the MNR, but nonetheless. You've got to integrate these materials management things. Because it would create waste to haul it off and they have to pay this huge levy on construction and demolition waste, they miraculously find a way to crush that, recover materials and reincorporate it into the new building. So that's a huge opportunity. It requires broader thinking than our present legislative structure in Ontario.

Mr. Rosario Marchese: Okay, good suggestion. How much time do we have, Chair, so that I know?

The Chair (Mr. David Orazietti): You have five minutes, Mr. Marchese. Go ahead.

Mr. Rosario Marchese: Under the ARA, aggregate operators are responsible for assessing their own compliance with site plans. I've never been a big fan of self-compliance. I saw the problem with the TSSA that you alluded to, and I think we need tighter compliance. People monitoring themselves are not going to do a good job of it. It makes sense, and why we haven't gotten a handle on that I just don't understand, but I don't think you spoke to that. Do you have a comment on that?

Mr. Gord Miller: Back in a previous career, I was what they now call a district manager for the Ministry of the Environment. In fact, back in the days before we had an enforcement branch, I was in charge of enforcement. I'm comfortable with a degree of self-compliance as long as it's backed up by rigorous occasional inspection by competent inspectors.

Mr. Rosario Marchese: Right.

Mr. Gord Miller: The norm could be and should be self-compliance. That's what you want. But somehow the self-compliance works much better if there's a threat of a real person coming in who knows what they're doing and has a ticket book in their hand.

Mr. Rosario Marchese: What you clearly stated today, or on another day where I think you spoke, is that the ministry has been chopped by 40% or so, give or take. If that is true, you can never get enough inspectors to monitor those who are self-monitoring. So that's a problem.

Mr. Gord Miller: That is huge. It's a big problem. I cite the Rockfort decision because there is a case where at least one reason it was turned down and the company was frustrated in their attempt to get a quarry was because the OMB recognized that there was not an adequate capacity within the Ministry of Natural Resources to do the inspection job and the follow-through in the long term. More than it's the lack-of-compliance problem, which I have identified, it has actually caused failures and unnecessary costs to the industry.

Mr. Rosario Marchese: So, Gordon, given that the ministry is not likely to restore its funding, because I don't see that, what do we do?

Mr. Gord Miller: I don't accept that the ministry can't restore its funding. I think there is a pool of money for at least the inspection. You're going to have the industry here soon, and that's a question I would suggest you ask them. We're talking cents per tonne on rock and gravel. It sells at dollars per tonne, and if the smooth operation and proper operation of their industry is at stake, I think there is—I'm not speaking for the industry—some recognition. I think there is enough money there to make a deal.

Again, I just re-emphasize that my biggest worry is the other component of money, which is the long-term planning money, the long-term capacity and experts within the Ministry of Natural Resources: that money has been severely challenged by recent budget cuts and added to the cuts over the decades, and I'm not optimistic in that regard.

Mr. Rosario Marchese: Another question: The MNR's own evaluation in 2002 found that some industry

operators were submitting reports deficient in important information, such as excavation depth or rehabilitation information. If that is true, and we have staffing issues in terms of the ability of the minister to deal with this, again what do we do with that?

Mr. Gord Miller: We've got to get somebody competent and independent to inspect. There are other models. In the Crown Forest Sustainability Act there is money when you have your stumpage fees when you cut in the crown forest. In addition to stumpage fees, there are other fees put on that create a pot of money—and that is protected from the Ministry of Finance, I might add—and that goes to have an audit of the system done. Independent companies are hired to bring in an audit to forest management, and that funding is set aside by putting a fee on cut volumes.

That's outside of government. If the government of the day insists that the Ministry of Natural Resources is to be smaller and have less capacity, which seems to be the case, then there is a way, and it works. I've been on those audits, or at least one of them, and they work very well. So there are other options.

Mr. Rosario Marchese: Thank you, Gord.

The Chair (Mr. David Orazietti): Liberal caucus, go ahead.

Mr. Mike Colle: Thank you, Mr. Chair. Thank you for the very thought-provoking presentation. The question I have is: As you know, we in Toronto and the GTA now have about 180 cranes in the sky. That's more than every city in North America combined. I know that Hume in the Star today talked about the golden age of development happening.

There's a lot of discussion about dealing with the supply side of this issue: source. What about the demand side?

Mr. Gord Miller: The demand side is the recycling, in a sense, if you like, because the demand can be reduced by on-site recycling. I referred to the UK, where they do a tremendous amount of reuse and recycling. You grind up what you've got in an existing site.

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You're referring, of course, to all the high-rise condominiums in the city, most of which are preceded by demolition and excavation. If you turn good engineers and architects loose, they can do some amazingly clever stuff, if the economics dictate it. The problem with our system currently is that we don't tax that or we don't charge anything to haul that stuff away. You can go dump it down on the Leslie Street spit for a small tipping fee, or maybe up in Durham county. But we don't put any back pressure on the system with a financial disincentive. It's cheap to haul it away and it's cheap to bring in new stuff, so that's what we do.

Mr. Mike Colle: So for instance, on the Trump Tower site, there was a building there previously, I'm sure. The Trump Tower is charging $1 million minimum per unit. I wonder—I'll get staff to do some research on this to find out what, if anything, the developers of the Trump Tower site, for instance, paid for demolition or for removal of the demolition products from the site. I'm sure it'll be—

Mr. Gord Miller: In terms of removal, we're just guessing as to what it might be, but I'll tell you, it's a very, very small portion of the cost of that building.

Mr. Mike Colle: You talked about the reality of dealing with inspection and government oversight. You mentioned the self-regulatory approach that we did with the TSSA. I think it was the Conservative government that brought it in, and then we've kept it. In terms of that model there, of the industry basically helping to undertake a certain aspect of self-regulation, is there a model like that in existence anywhere in North America or Canada that you know of?

Mr. Gord Miller: I think the TSSA is the working model that is pretty close to home.

Mr. Mike Colle: No, but I'm just saying, in terms of in aggregate self-regulation, is there another jurisdiction—

Mr. Gord Miller: No. To my knowledge, no. Everybody uses largely the same model that we have.

Mr. Mike Colle: And is there another jurisdiction that has what you would consider legislation that we as a committee should be looking at that might give us some ideas of how we can improve the existing legislation?

Mr. Gord Miller: I apologize to the committee. I'm going to have to say no; I didn't do that research. Mind you, I only had 48 hours' notice of this.

Mr. Mike Colle: Yes, and I think I'm going to ask for that. I'm sorry to be unfair about that. I know you mentioned the recycling model in the United Kingdom, so we'll probably get some information on that.

The other interesting note: You talked about the lack of conformity of the aggregate act with the existing Oak Ridges Moraine Protection Act, that there's no need to conform to the existing Oak Ridges moraine act. Is that the fault of—because I remember in one of these chambers here, we discussed the Oak Ridges moraine act, clause-by-clause and everything. Is that something that's the fault of the existing Oak Ridges Moraine Protection Act, where there wasn't a requirement for aggregate extraction to conform to the act? Or is it the fault of the aggregate act?

Mr. Gord Miller: In my recollection—I'm drawing on memory here—the acts have to be prescribed under the Oak Ridges Moraine Conservation Act, and the Aggregate Resources Act was not prescribed. So in that sense, it's the fault of the Oak Ridges Moraine Conservation Act process in that it didn't sweep it in. Mind you, neither has anything happened on the other side to cause the Aggregate Resources Act to be administered in compliance with it.

Mr. Mike Colle: Yes, and you mentioned the source water protection act, that same type of lack of compatibility or availability to use that as a protection.

The other interesting concept I think that was brought up my colleague from Durham, and you alluded to it too, was about perhaps more municipal participation in decisions—the site plan control etc. I'm just wondering, could there be sort of a blended approach in terms of more municipal input and say in approval processes, but still overarching provincial jurisdiction?

Mr. Gord Miller: Therein lies the solution, exactly. I think what we have is blended jurisdiction there, and the municipality has some zoning authority in this regard; yes. I think the original intent of the Aggregate Resources Act was to keep this in the control of the province so the province could make sure that there was aggregate available for the economy. It's just a matter, given that they both have a role, that the role for municipalities is frustratingly small and the role of the province is very large, but the capacity of the province is—

Mr. Mike Colle: Very small also.

Mr. Gord Miller: —frustratingly small.

Municipalities understand land use planning. They're the biggest consumers of aggregate, so they are not going to cut their own throats with respect to cost and production. I think you could increase—on the last model you suggested, I would say that the solution, in my opinion, is that we keep the provincial control there and in a dominant position, but increase the participation and the role of municipalities.

Mr. Mike Colle: And you also mentioned, Mr. Miller, in terms of getting aggregate to market, the three myths you alluded to, one myth being the proximity to market, source to market, and you said there might be another transport mode other than trucks in terms of getting aggregate to the sites. What might there be available that is not being utilized enough today?

Mr. Gord Miller: I think the options of rail and water, probably in that order, are both neglected options. I think rail could bring an awful lot. You know, rail is the most efficient transportation mechanism for bringing in bulk quantities. Right?

Mr. Mike Colle: Even diesel rail, which pollutes the air?

Mr. Gord Miller: Even diesel rail, energetically, and greenhouse-gas-wise—

Mr. Rosario Marchese: T4. Don't forget.

Mr. Gord Miller: T4—is far more efficient for bringing in bulk commodities. Picture those trucks parked up there in the morning on the 404, a dead stop, crawling in, or coming in from Mississauga or wherever.

Mr. Rosario Marchese: Diesel buses from Dufferin.

Mr. Gord Miller: Picture how energy-inefficient, gas-inefficient, that is, whereas rail is much, much better.

There are some infrastructure issues in terms of depots and handling, granted. To some extent and in some instances there is, in my understanding, still dockage at the front, you know, owned by a major aggregate company down here in Toronto, and there still are possibilities of bringing in aggregates by ship, although I think rail is the more viable thing.

If you get aggregates rolling on rail, by the way, distance becomes less of a problem and you can move material from farther away, like northern Ontario, where we already have blasted rock.

Mr. Mike Colle: Plus you might, again, have a blend there, where it might not be all rail to site, but at least shorter truck trips and—

Mr. Gord Miller: It would likely be rail to depots and then trucks from the depots.

Mr. Mike Colle: I would just like to ask you, if possible, at a future date, as this committee deliberates, if you would come back and perhaps respond to more of our questions as we get more feedback from other people.

Mr. Gord Miller: I'm at your service. I am an officer of the Legislative Assembly.

Mr. Mike Colle: Okay. Thank you, Mr. Miller.

The Chair (Mr. David Orazietti): Thank you very much for your presentation today, Mr. Miller. We appreciate your coming in, and those are all the questions we have for you.

Mr. Gord Miller: My pleasure.

MINISTRY OF NATURAL RESOURCES

The Chair (Mr. David Orazietti): Our next presentation is from the Ministry of Natural Resources. Mr. Pichette, how are you? Anyone who is giving a presentation, just state your name for the recording purposes of Hansard.

Mr. Ray Pichette: Yes, my name is Ray Pichette. I'm the director of natural heritage, lands and protected spaces, in the policy division of the Ministry of Natural Resources.

The Chair (Mr. David Orazietti): I understand that we're combining the two presentations, so I'm not sure if half an hour will accommodate—an hour total but half an hour for your presentation and 10 minutes for questions. Okay. Up to an hour, I understand, for your presentation, should you need that time, and then questions following, given that both presentations are being combined, if that's satisfactory to the committee.

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Ms. Sylvia Jones: Point of clarification: both presentations? Which both presentations?

Clerk pro tem of the Committee (Ms. Tamara Pomanski): The subcommittee had requested the authors from the SAROS report—if I pronounced it wrong, sorry—as well as the Ministry of Natural Resources to speak, and they are one and the same. Apparently they can speak to both, so we've allotted them an hour to speak for presentation.

Ms. Sylvia Jones: But the four presenters are all MNR staff?

Clerk pro tem of the Committee (Ms. Tamara Pomanski): Yes, they are.

Ms. Sylvia Jones: Okay, thank you.

The Chair (Mr. David Orazietti): Go ahead, folks.

Mr. Ray Pichette: Mr. Chair, we delivered a presentation to the clerk. I wonder if that presentation could be delivered to the members.

The Chair (Mr. David Orazietti): It's being circulated. Thank you.

I'm not sure if in your presentation you plan on differentiating between the ministry role and the report that was done, if you're going to speak to that separately. Or

are you going to kind of intertwine them in the presentation? Originally, at subcommittee, we discussed an hour for ministry and an hour with respect to the SAROS report, which would have been a half an hour for your presentation and a half an hour for questions, and the same for anyone making the presentation with regard to the report. I don't know if you want to speak to those separately or you want to just brush over all of the items together and combine them.

Mr. Ray Pichette: In essence, Mr. Chair, the intent here is to give an introduction on aggregates, legislation, the rules of licensing, a number of key findings from the state of the resource of Ontario, aggregate resources—and to walk through it as one storyline for members and be able to—

The Chair (Mr. David Orazietti): Okay. You have up to an hour for your presentation.

Mr. Ray Pichette: Okay; great. I'll go as fast as I can.

The Chair (Mr. David Orazietti): No problem.

Mr. Ray Pichette: Thank you very much for the invitation.

Just to start on slide 2—we do have extra copies if people from the gallery wish to have a copy. There are some right there.

Just to give you a sense of what aggregates are, you've heard a lot about sand, gravel, clay, earth and bedrock that are found in our natural landscape. You'll often hear over the next few sittings the term "sand and gravel" versus "crushed stone." In essence, sand and gravel is the unconsolidated material; crushed stone is bedrock that has been crushed for the purposes of creating stone.

What aggregates do not include are underground excavations, metallic ores and certain other what we call industrial minerals like graphite and gypsum. For the most part, those are handled under the Mining Act.

On slide 3: We all know that aggregates are a major component to the province's infrastructure. Just to give you some little tidbits that we've received from the state of the aggregate resources of Ontario reports: For example, the United States produces three billion tonnes of aggregate per year. Ontario, at this point in time, is around 166 million tonnes to 170 million tonnes a year. I do want to qualify that that represents 44% of Canada in terms of total aggregate and, in fact, if you go to southern Ontario, and southern Ontario alone, we're in the 130-million-tonne to 135-million-tonne range. That is actually 35% of all of Canada.

The bulk of aggregates, of course, is in roads and highways, which is often considered the construction sector; 60% of the aggregate produced ends up in that infrastructure. Certainly, I think we all appreciate that homes and hospitals etc., the concrete, bricks and glass—airports and subway tunnels have actually quite the need for aggregates.

The important component and one of the reasons why aggregates are of provincial interest is that greater than 50% of the aggregates produced in Ontario are bought by governments, and that even includes the federal government when they're doing airports.

Aggregates in general—and I'll speak to this as part of the findings in the SAROS report—do form the foundation to the $45-billion construction industry that employs about 245,000, although the aggregate industry itself employs 35,000 directly and indirectly.

If you go to slide 4, this gives you a picture of central and southern Ontario. Much of the discussion you hear, of course, will be from the greater Toronto area and the Golden Horseshoe as that is where most of the consumption occurs. If you can see up towards east of Lake Simcoe, that green band there, that actually forms part of the edge of the sedimentary basin of the Michigan basin, and some of those areas we call the Carden Plain, and, of course, the Peterborough area. That is a source of crushed stone for the east side of the greater Toronto area.

As well, you can see in light green that the Oak Ridges moraine, of course being a glacial terminal moraine, is also a major source for the greater Toronto area.

If you can see the kind of reddish colour there that follows the Niagara Escarpment, it is the Niagara Escarpment. There is a reason why there is a cliff there. The caprock is a very durable rock. That's where the crushed-stone requirements come from for the greater Toronto area.

The Oro-Medonte area of Simcoe county—I think it's Simcoe county—is also a significant source. As you go further west, you'll see that the Saugeen area of Bruce and Grey will be a major source in the future, as well as the deposits in the Wellington area.

What we normally talk about is that the source of aggregate is either bedrock deposits that have the quality and quantity of the kind of rock that is needed for infrastructure development, or they can be glacial deposits that have resulted in well-sorted sand and gravel features that form fantastic opportunities to remove sand and gravel.

Generally, quarries require some form of blasting. It isn't universal. Normally, they require some form of dewatering. With sand and gravel, there is no blasting or, generally, dewatering.

On page 5, one of the limitations on aggregate supply, of course, is the delivered cost, and this is why Ontario has adopted a close-to-market. As you can appreciate, aggregates are high-bulk materials, and moving them long distances is very expensive. As a rule of thumb, we've often used: 10 kilometres adds $1 per tonne to the price of aggregates. Again, from a public interest perspective, more than 50% of aggregates are bought by governments and, as a result, cost has often been a major input in terms of the public interest.

There are, as you heard from the commissioner, a series of restrictions on land use that may affect availability. I will get into that in a little bit more detail. Another thing one needs to understand is that aggregate isn't just aggregate; there is a quality aspect in terms of the rock and its end use. I'll get into that to some detail, understanding that not all aggregate can be used for high-quality concrete and asphalt. At the end of the day, you can only find those deposits where they're actually in situ.

The policy framework for aggregates is fundamentally under two pieces of provincial legislation: firstly, the Planning Act, which is under the municipal affairs ministry; and the Aggregate Resources Act, which is with MNR. These are the overarching legislative frameworks for managing aggregates in the province. There are a host of other pieces of legislation: the Water Resources Act, the Environmental Protection Act, the Niagara Escarpment Planning and Development Act, the Endangered Species Act and, actually, the federal Fisheries Act, at least at this point in time.

Many ministries are involved in aggregate resources; it isn't totally the Ministry of Natural Resources. The Ministry of Northern Development and Mines, through the Ontario geological survey, identifies and maps aggregate resources in the province, predominantly in southern Ontario, so that municipalities do have that information; MOE plays a significant role in environmental protection, particularly in water; MA, municipal affairs, in land use; and certainly the Ministry of Transportation in developing aggregate specification standards as well as being a fairly significant consumer.

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We are in partnership with the municipalities, and I hope to explain that very clearly in terms of the role of the ministry and the role of municipalities in licensing and permitting operations.

What I'm hoping to cover here in the next 40 to 45 minutes is, if you go to page 7, I'll give you a rundown on the Aggregate Resources Act, including operations and rehabilitations the fees and royalties—there were references made by the commissioner; planning for aggregates—siting, aggregate resource development, and protection; and recycling of aggregates. I hope to give you a summary of the findings from the study called the State of the Aggregate Resource in Ontario Study and roughly what would be on the horizon in terms of new developments.

Under our module 1, the Aggregate Resources Act, if you move to slide 9, it does provide for the management of aggregate resources. This piece of legislation is predominantly a controlling and regulating piece of legislation for aggregate operations on crown land and private lands. It is a legal requirement, as part of the licensing process, that rehabilitation of those lands must occur, and in fact the legislation speaks to both final rehabilitation and progressive rehabilitation.

The act was really designed—and in fact, no aggregate extraction is actually the same in all cases; the landscape in which the undertaking is being proposed will vary, and in essence the act is adaptable to allow for the proponent to plan out their mining process right up to rehabilitation and then be able to present that kind of proposal to the ministry. It is meant to be situational. However, the provincial standards that you heard about do give fairly specific guidance in how to engineer. In effect, the act is meant to say, "Measure those impacts and mitigate against those impacts in terms of making them either tolerable or eliminate them entirely," and that's part of the process on the licensing side.

The act actually also establishes the Aggregate Resources Trust, which collects and manages fees and manages abandoned sites. That was an alternate service delivery mechanism introduced in the 1997 legislation.

The Minister of Natural Resources is responsible for the act, and this current act first came into play in 1989-90 and was significantly updated in 1997.

Just a little bit about where the act actually applies: It certainly applies to all crown land in the province of Ontario, and that includes the removal of aggregate as well as topsoil. The words "aggregate permit": When you hear that authorization, it usually means that the crown owns the resource.

All land under natural water bodies would be an aggregate permit, as the beds of most lakes are in fact crown land. The act only applies to private land that is designated under the act. If you move to slide 11, you can see where the act applies: at this point in time, to pretty well all of southern Ontario. The yellow represents the area that was designated prior to 2007 and the green represents the area that we designated in 2007. So we have predominantly the bulk of production in the province under this designation.

If we move to slide 12, you'll see that the Aggregate Resources Act does provide the instruments and approval requirements in order to operate pits and quarries in the province of Ontario. There are regulations, and the regulations actually specify many of the reporting deadlines and identify the annual fees.

The other big instrument here is, of course, the provincial standards that you heard the commissioner—and I'd be pleased to provide the committee with a couple of copies of it, or even more if you wish. We'll undertake to get enough copies. They are on our website—

Mr. Rosario Marchese: Sorry, which one is that?

Mr. Ray Pichette: The provincial standards.

The important thing to recognize here is that this document has the same force and effect as regulations. There's a provision in the act that allows us to refer this document, and we did so through regulations, so it is an enforceable document. We have a couple here that we can leave you, but we'll certainly undertake to provide that. As the commissioner indicated, it might need some revisions.

Finally, you also heard the commissioner speak to the policies and procedures. Here's an example, and yes, it is rather thick. As you can appreciate, MNR is a decentralized organization with offices throughout the province. This is the guidance to our inspectors and field personnel in delivering the act, so that it's done within policy as well and in a consistent manner. These documents can also be found on our website. We make it totally public to anybody who wishes to follow up.

On slide 13 you'll see three main instruments that are established under the Aggregate Resources Act. The first one is licences. These are private land instruments. We have two classes: There's class B, less than 20,000 tonnes per year; and class A, greater than 20,000 tonnes

per year. You can see that we have around 3,720 current licences—roughly 45 new per year. This represents about 90% to 92% of production in Ontario—this is southern Ontario. Most of the production in Ontario is on private land.

Wayside permits are another private land instrument, but they can only be issued to public authorities such as municipalities and the Ministry of Transportation. These used to be a very active instrument in the 1970s and 1980s but are becoming smaller and smaller. They are those small, temporary operations that you'll find along the sides of roads, and are opened up for their local sand and gravel—or in some cases, crushed rock—for the building of that public road or infrastructure. Their limitations are that they're only supposed to be approximately 18 months from start to finish—and "finish" includes full rehabilitation—although, as you can appreciate, there are provisions for some extensions.

Aggregate permits are the instrument we use on crown land. We have about 2,230 throughout the province, particularly in northern Ontario, and we do about 50 new ones per year. Ministry of Transportation aggregate permits: As you can appreciate, that ministry has access to crown resources to build provincial infrastructure. They issue about 600 per year as well. Just to give you some sense, the aggregate permits, 2,230—the 2,000, we'll have issued; the Ministry of Transportation would issue the 600 permits to their contractors for the purposes of particular projects.

Slide 14 is not meant to scare you but more to give you an indication of the extent of aggregates as a local industry throughout the province—"local" in the sense that it covers all settled areas, and anytime you have people you have a need for rock. There is, of course, the close-to-market side as well as the cost because of transportation.

Slide 15: a little bit about the licence application process. Now I'm going to be speaking about the standards themselves.

The standards were created in a manner to really allow for plain-language requirements to the proponents, both on the technical and the process sides. Clearly, there are some very specific standards with regard to site plan development. As you can appreciate, there's a threshold of 20,000 tonnes per year. For anybody above that, the site plan requirements are a little bit more than those that are less than 20,000. The impacts of operations less than 20,000 are nominal compared to those that are much more significant. There's a clear listing of all the site plan requirements we expect to see on the site plans that the proponent delivers. There is a minimum requirement to have a full description of what's there prior to any disturbance. There is a full description of how the site will be extracted, including progressive and final rehabilitation. And there is a full plan at the end on exactly how it is going to be fully rehabilitated. Those are the minimum requirement in terms of what they must submit.

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Then there is a requirement with regard to reports. Reports are predominantly the science side of the equation—hydrogeology reports, particularly if there is potential for below-water extraction. Natural environment reports are required. Cultural heritage reports are required. Haulage road reports are required. There can be noise requirements etc. These are all articulated in the standards, in terms of upfront, minimum-requirement reports that we expect to see. Also in there now is a requirement we introduced in 1997 that they need to be done by qualified individuals.

There are a series of prescribed conditions in the standards that, irrespective of what the operators feel they can do or cannot do, we have said that, "These are standards you're automatically going to get, because at the end of the day you will have to deal with it." The biggest one is dust. Dust must be mitigated on-site. Every operator that receives a licence will have that prerequisite.

On the notification and consultation, I'll go into that in a little bit more detail in the next slide.

There are some additional operational standards, but they can be overridden by details on the site plans, and there are also compliance reporting standards. Yes, we are in a self-compliant mode, but I would table that MNR's method of enforcement is risk-based. Our intent is not to spend time with those operators that do normally comply with the legislation but to spend time with those operators that seem either suspicious or seem to be in total non-compliance.

This is a proponent-driven process, and the standards do set out the details of the process.

So, a little bit on the notification and consultation standards: The way the act works, there are these prerequisites on the information you must supply to the Ministry of Natural Resources. In essence, when we receive that application, the first step is to check to make sure that they have everything that the standards have articulated they should have. It is not a content check or a quality check; it is more to make sure that they have reported and met the details of what the standards require.

Once we have decreed that they've met all the application requirements, we ask them to go and follow the notification and consultation standards. I think it's initiated by virtue of the newspaper advertising they need to do, and there is a 45-day period. There must be signposting at the site. There is newspaper notification. There is a requirement for at least a minimum of one public information centre.

Yes, they do only have to give notice to the landowners within 120 metres, and they have to circulate and deliver the report to agencies and stakeholders. I want to qualify that the agencies include the Ministry of Natural Resources, the Ministry of the Environment and, if it is prime agricultural land, the Ministry of Agriculture, Food and Rural Affairs. The conservation authority does get a copy. The municipalities, both upper- and lower-tier, must get a copy. It is a prerequisite.

During the process—yes, we do post the application on the Environmental Bill of Rights. During that 45-day period, the public, the agencies and stakeholders can

actually file objections to the undertaking, and those objections are filed both with the proponent and the Ministry of Natural Resources. The act has a legal requirement that the proponent must make an effort to resolve all the objections, and we give the proponent a two-year window to do that. At the end of two years, the proponent would submit the final package to MNR, and how and what attempts they made to resolve all objections. At that point in time, MNR would look at the outstanding objections and decide whether to recommend to the minister to refer the matter to the Ontario Municipal Board or, in fact, issue the licence.

Just to reiterate—and I'll be mentioning this later—before any licence can be issued, there must be conformity with the municipality's official plan and there must be appropriate zoning provisions that do not prohibit the undertaking at that site. So the municipalities, in essence, have to approve the site before the minister can approve it. However, the processes can occur concurrently.

For crown land, it's a little different. We follow our class environmental assessment screening. There is no posting, the window for accepting the application and processing it with the proponent is only six months, and there are no appeal provisions if we decide not to issue the permit. This, of course, is crown land, and the minister is fairly in a control situation.

Slide 17 gives you the opportunity, if you so wish, to really get into this in a little bit more detail, but I hope I've been able to walk you through the steps that lead up to the aggregate resources decision.

One thing you need to be aware of is that there is a section in the legislation, subsection 12(1), which requires the minister to have specific considerations before issuing the licence. One of those considerations is the compliance history of the proponent. So if they've been a bad apple in their history, that is a legal consideration the minister can take into account.

I'm going to slip to slide 19, rehabilitation. Rehabilitation actually means restoring the land to its former use or to another use that is compatible with the surrounding land. Progressive rehabilitation means, of course, to rehabilitate parts of the site where the aggregate has been removed while aggregate is still being excavated. There are, of course, some limitations to progressive rehabilitation. If you are quarry dewatering, it's a little bit more difficult than if you have a sand-and-gravel operation above the water.

The other side of it: In some cases, in order to produce the right kind of product, there are blending requirements of the deposits that are necessary. As you can appreciate, a sand-and-gravel deposit isn't homogenous. There are different types of rocks throughout the deposit that sometimes have to be blended to make a certain type of product. But for the most part, what you'll see are restrictions that phase 1 and 2 can be extracted on the site plan, but you can't go to phase 3 until phase 1 is fully rehabilitated. Those are the normal types of conditions you'll see on the site plans.

Slide 20 simply speaks to the legal requirement. Anything on a site plan is enforceable. So the rehabilitation that's identified must be complied with, and non-compliance is, of course, a violation.

We do have minimum standards there for rehabilitation, but we always encourage proponents to go beyond that, and they can override the minimum provincial standards with certain provisions in the site plan. For example, the Niagara Escarpment is a cliff environment. Some of the quarries in the Niagara Escarpment area are actually rehabilitating parts of their facilities, leaving the cliff that in the future—the intent is that it's compatible with that general cliff environment and will blend in very well.

In some cases, rehabilitation will require a degree of post-monitoring, whether it be a water issue or even an agricultural yield that must be attained within the site prior to us allowing it to be signed off as completed rehabilitation.

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Page 21, compliance tools: We have a host of compliance tools that were introduced in the 1997 act—warnings, inspection reports, suspensions, orders, charges, and the revocation of licences and permits. When we do revoke a licence or permit, there is an appeal mechanism in some cases, and in other cases it's final.

I wanted to add one thing here. I'm unaware of any legislation in the province that has this, but if a violation happens today in a particular site, we have five years to uncover it. So something that happens today, that we find three years from now, is still considered a violation. There is a five-year Provincial Offences Act override in this particular legislation.

The actual penalties can go from $500 to $30,000 a day. I wanted to add that there are some very serious provisions with regard to automatically going into suspension if you do something, even though we might not be at your gate, and any monetary aspects that you've received during that time, either in suspension—can become part of the fine.

We just recently developed a renewed risk-based approach to compliance to allow a more focused effort on some parts of compliance that we wish to spend some time on.

If we go now to fees and royalties—and I'll run through this fairly quickly—there are fees under the Aggregate Resources Act. You can see from the table on page 23 that the industry had fees of upwards to $18.5 million, and we did almost double the fees in 2007. Again, every time we consider this in terms of increasing these fees, we have to think of the overall cost to both the public purse as well as the local municipalities.

Where do these fees come from? If you go to page 24, the current fee on licensed property is 11.5 cents or $400, whichever is more; for aggregate permits, only $200. We have an application fee of $1,000; a transfer fee of $500 or $300, depending on the instrument; and we also charge for major amendments now.

Crown royalties: These are where the crown owns the resource. We have a minimum royalty of 50 cents a

tonne. What we normally do is assess the local markets and add to that, in order to make sure that it isn't providing either an advantage or a disadvantage to the local operators that might be extracting from crown land, and to ensure that the public gets a return for the use of that resource.

On page 25, you can see that out of the 11.5 cents, 3.5 cents comes to the crown, six cents goes to the local municipality, 1.5 cents goes to the county or upper-tier municipality and half a cent goes to the abandoned pit fund that you heard about from the commissioner.

On slide 26, a little bit of statistics here that I think are very relevant, and why you saw so many dots across the province of Ontario: We have approximately 5,800 to 6,000 sites at any given time in Ontario, and right now, 5,515 produce less than 100,000 tonnes. Again, when you consider non-GTA production, it is very different than those who satisfy this community here. I have 182 sites that are producing between 100,000 and 250,000 tonnes.

We have only 24 sites that produce more than a million tonnes. The commissioner mentioned the site on Manitoulin Island, and, yes, it has reached, we believe, the four-million to six-million tonne range, but that is considered a fairly large operation. My guess is, about 10 of those sites—actually, three of those sites produce in that four-million to six-million range. Considering it's a province that requires somewhere between 160 million to 180 million tonnes, you can see why there are so many sites.

The Aggregate Resources Trust—slide 27—is, of course, an attempt to do alternate service delivery in a manner that certain functions that were performed by the ministry prior to 1997 are now done by the Aggregate Resources Trust; that is, invoicing, collecting and disbursing fees and royalties, rehabilitation of abandoned pits and quarries and revoked sites, and some research and other matters that have been specified by the minister.

I want to qualify that "abandoned" means it has never been licensed; it's never been under provincial control. This was the legacy of the sector of the industry prior to the province assuming a level of control, I believe, in 1971.

Where we have revoked a licence or a permit, or if a company becomes insolvent, the trust also has an opportunity to go in and rehabilitate those sites. And if there isn't enough money to cover off the rehabilitation, the trust is empowered to go through the courts to seek financial compensation.

Mr. Rosario Marchese: How many have been revoked?

The Acting Chair (Mr. Michael Coteau): Can we wait until the presentation is finished to ask questions, Mr. Marchese?

Mr. Rosario Marchese: We're not going to have time. We'll have to re-invite them. But okay. It was a quick question.

The Acting Chair (Mr. Michael Coteau): We still have about 25 minutes left for this presentation.

Sorry for the interruption, sir. Go ahead.

Mr. Ray Pichette: Thank you, Mr. Chair.

TORAC is a private corporation. It's called the Ontario Aggregate Resources Corp. It earns its funding through investment earnings of the money it collects. It is owned by the Ontario Stone, Sand and Gravel Association, and it does manage the abandoned pits and quarries fund through the management of abandoned aggregate properties.

If you go to the next slide, you'll see that this has been a very successful program. I might add that the trust did very well in rehabilitation, compared to when the ministry had it. From 1992 to 2010, there was more than $6.3 million spent on rehabilitating about 540 hectares of land. One of the qualifiers here is that the landowner must allow the rehabilitation, and there are many situations where the landowner will not accept somebody coming to rehabilitate their lands.

There is an annual report produced by the trust. To give you some comfort, the trust is required to be audited annually and the report is submitted each year to the Legislative Assembly of Ontario and to the minister. I do have copies of the 2010 annual report of the trust. If you want copies, we would certainly provide them.

A little bit about planning for aggregates—I'll quickly go through siting and aggregate resource development; you've heard about it:

—The Planning Act, of course, provides the ground rules for land use planning for municipalities in the province;

—The provincial policy statement has elements in there with regard to the availability and protection of aggregate resources;

—The official plan should be consistent with those provincial policies; and finally

—Zoning is the way the municipalities implement their policies.

The actual provincial policy statement—I'll keep this very brief. We ask municipalities to protect as much aggregate resources as possible—that is, realistically possible—and, of course, protect encroachment on existing operations. The simple reason is that we don't want infrastructure built on quality deposits to the point where they are sterilized forever, and we don't want current operations to have new receptor development coming close to them, and then, all of a sudden, they need to change their operations because of the impact. That's truly the fundamentals of what the provincial policy articulates.

We do rely heavily on the Ministry of Northern Development and Mines for the inventory of deposits, and they go through a mapping exercise, predominantly in southern Ontario, to identify resources, and there are criteria for what makes a good resource versus a bad resource. For example, on sand and gravel and even crushed stone, you have to look at things like absorption and porosity, freeze, thaw, durability of the rock, and one of the most important ones is alkali reactivity. Rock that responds to salts tends to expand and break the concrete, and that's one of the reasons why it's important that the

quality of the resource is such that—in terms of the contribution to things like asphalt and concrete.

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Municipal involvement: As you can appreciate, they are the first level of permission for the siting of aggregate resources. They must have zoning that doesn't prohibit the establishment of a pit or quarry. However, the process of getting municipal approval and provincial approval often happens concurrently.

On slide 13, when it comes to siting considerations, quality and quantity play a big role to the sector in finding the appropriate site, making sure that there aren't constraining factors. There are provincially significant wetlands that conflict or cannot be altered and therefore are areas where the resource is not accessible. The greenbelt plan has a series of provisions. These all have limitations on the availability or provide a level of limitations on the availability of the resources.

Ownership of the land is very important—they need to either have the right to the resource or own the land—and, certainly, proximity to transportation routes and markets. One of the findings of the SAROS reports on resource availability indicated that 93% of the high-quality bedrock resource in southern Ontario, particularly around the greater Toronto area, is already constrained and is non-accessible.

I'm going to confuse you on slide 34, probably, but it was an attempt, without showing some graphics here, on how one would try to site. If you can look at the area where there are green-browns and darker greens—if you can look at it in the manner that says there is the Amabel rock formation, and if you look at this side of the site—now try to see where it extends in this part of the diagram. You can just see it as a shadow in there. So what we have here are woodlots, wetlands, urban areas, even roads.

To give you a sense of the size of an aggregate operation, if you go to the lower right-hand side, for example, those boxes represent the size of fairly significant quarries. Try to site that in any of the open space. So you'll see the challenge in siting operations or potential resources, considering the extent of other features that are to be protected. That's some of the challenge the sector is finding, as well as the ministry, in terms of trying to get a handle on resource availability for the future.

On slide 35, you can see that the larger percentage of aggregate is produced in southern Ontario. We have the top 10 there, representing about 50 million tonnes in 2010, predominantly to satisfy the greater Toronto area and the 905 region. However, if you move towards Zorra, that's starting to try to satisfy Woodstock, Cambridge, Waterloo, and even London, to some degree. London and Windsor are effectively out of crushed stone as we speak.

Slide 4, recycling of aggregates: We commissioned a study in 1991 that showed that asphalt and concrete were being effectively recycled. In 1991, it represented 4% of the province's total with regard to recycling. In 2007, through the SAROS report, we found that there's roughly 7% now being recycled. The point I wanted to make here is that the Ministry of Transportation has been using recycled aggregates since the mid-1970s for their provincial roads. The difficulty is, there is nothing in the Aggregate Resources Act that allows for recycling. We look to the municipality to authorize recycling. Our policies are that if they wish to establish recycling opportunities within a licensed site, we promote it, but we need to have the municipal permission to allow it, and appropriate zoning by the municipality. I'll speak a little bit more to recycling when I get to the actual report on that.

Let's go to the State of the Aggregate Resource reports. There were six studies done, if you go to slide 39, and again, it was to have a sense in time of where we stood with regard to aggregate resources and current information. Six papers: consumption and demand, future aggregate availability and alternatives analysis, value, recycling, reserves, and rehabilitation. It's a 1,400-page document. It will burn out your printer, I'm sure. It is located on our website. We'd gladly burn you some CDs rather than give you hard copies, but if you so wish we'll get you hard copies. It will take us some time.

These studies were done by consultants. MNR is not the author; they were done by consultants, and the process of the studies was overseen by an advisory committee of multi-stakeholders. The Ontario Stone, Sand and Gravel Association, the Cement Association of Canada, BILD, the Ontario Professional Planners Institute, AMO, Gravel Watch, the Niagara Escarpment Commission, Conservation Ontario, the University of Toronto, and the Canadian Land Reclamation Association were represented on the steering committee, guiding—not doing, but guiding—the study and the study results.

I'm going to try and walk you through some of the more important findings in some of these areas.

The first one was demand, study 1, and I'll do this in two phases: try to give you a little bit of a teaser and then get to some more details.

The demand one identified that, as you can appreciate, population and aggregate demand go somewhat hand in hand. They are forecasting an average of 186 million tonnes per year over the next 20 years, which is 13% higher than the last 20 years.

In terms of availability, the study indicated—they did a sample on bedrock resources and identified that 93% of bedrock resources may be constrained because of environmental, agricultural and social considerations. Close-to-market policies are more cost-effective, and they do have numbers in there, particularly because of the greenhouse gas efficiencies. Alternate transportation produces at least two times more greenhouse gas, and they do have cost estimates in terms of rail, marine and so on. I'll get a little bit into that.

With regard to value, there was certainly a value exercise in terms of what aggregate means in the GDP context, and you can see there that the estimate at the time was that 60% of all aggregates are bought by governments.

Recycling, as I mentioned: 13 million tonnes right now is being recycled. That's 7% of the total consump-

tion. Asphalt and concrete are well recycled, and unfortunately there is very little tracking of recycled material in the province of Ontario. I think you'll hear more about that.

When it comes to reserves, a total estimate of high-quality bedrock reserves currently licensed is approximately 1.47 billion tonnes. I will specify that in the reports there are some restrictions. High-quality reserves for the GTA, I believe, are down to 317 million tonnes.

Rehabilitation: It is happening, both progressive and final rehabilitation. There are statistics on what kinds of end use. There was a sense that 58% of sites were following progressive rehabilitation; 40% were not. Unfortunately, the report doesn't tell us what happened, why the 40% didn't, but again giving us a sense that there is probably some work to do there in following up on that one. Certainly, the moderate to large operators have the far more sophisticated rehabilitation, compared to the small operators.

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So let's go through the reports briefly, here on page 41, and I'll walk you through some of the key findings.

How many—

Interjection: Ten minutes.

Mr. Ray Pichette: Ten minutes? This is great.

The Acting Chair (Mr. Michael Coteau): Twelve minutes left.

Mr. Ray Pichette: Twelve minutes? I'll have it done, sir.

In the last 20 years, it was 164 million tonnes. This very much is consumption and demand. I do want to qualify: You're going to hear the word "consumption." This isn't like gold, where you stockpile. All aggregates produced are used in that year; when they leave the gate, they are used. There is very little, if any, stockpiling that happens somewhere else, so that's why you often hear the word "consumed" rather than "produced"—and then, of course, on the demand side.

An interesting thing about the greater Toronto area: The greater Toronto area needs roughly 61 million tonnes, plus or minus, every year. I think last year it was 61 million tonnes. The greater Toronto area only produces 29 million tonnes—an interesting statistic. Right now, on a per capita basis, everybody is using 14 tonnes per person per year. Although there has been a slight decline in that—I believe at one time it was 15 tonnes or even 16 tonnes—you can see that they expect that to carry forward. They are forecasting consumption to rise to 186 million tonnes per year over the next 20 years. That is 13% higher than where we are today.

A couple of other points here that I think are important to raise to this committee: This report does say there could be a per capita decline of aggregates in the longer term; they see a slight downward trend. Perhaps as higher densities, in terms of planning policies, get well into implementation, less aggregates will be needed and so on and so forth.

We are generally similar to other provinces on per capita. There is a whole host of comparisons. Florida uses eight tonnes per person per year but, unfortunately, they don't have our weather pattern. To give you some sense, generally other provinces are in that 10 tonnes to 12 tonnes per capita per year.

To give you some sense of needs of aggregates: 18,000 tonnes per kilometre of a two-lane highway in southern Ontario. For a two-lane highway, you need 18,000 tonnes. Only 250 tonnes are required for a 2,000-square-foot house, but 114,000 tonnes per kilometre of subway line. The reason is that Toronto is built on the Queenston shale, which can't be reused for concrete.

A couple of other critical elements here—again, aggregate consumption. When you compare, the GTA is 61 million tonnes in the 2000s; in the 1990s, it was, on average, 47 million. So there has been a significant increase just in the reports—

Mr. Mike Colle: What page is that, sir?

Mr. Ray Pichette: No, I'm just referencing, Mr. Colle, right from the reports. That's in case you wanted to read them at your leisure.

So, again, Toronto, the GTA: on average, in the 2000s, 61 million tonnes per year; in the 1990s, they were at 47 million. To give you a sense, the Niagara peninsula was at 15 million tonnes annually for the 1990s and is currently up to 18 million tonnes. The GTA consumes less than northern Ontario, as you can appreciate, because of the extent of roads. Again, we are similar in per capita.

Let's go to slide 42, and again the future availability: This report provides an analysis of constraints on existing bedrock resources. The results said that on average, 93% of the bedrock resources are constrained. The report actually gets into details, in terms of the GTA, southwestern Ontario, eastern Ontario. I'll just let you know that, for the most part, again, as I mentioned, Windsor and London are already out of crushed stone.

There is transportation analysis here. When you consider rail and marine, there is of course a substantiation that the close-to-market is more efficient, predominantly on a cost side. Just to give you a sense on marine, there was an attempt here to model out, if material came from a specific location—I believe it was North Bay—what the extra cost would be, and the report clearly articulates that. Close-to-market represents around $9.50. Marine and rail would be about $52, and long-haul trucking would be $44. So there's an added cost, plus greenhouse gases, moving that forward.

There is a comparison of other jurisdictions, but I think, critically, one of the things this report does identify is, it says that it looked at alternative ways of getting aggregate. As you can appreciate, the concept of underground mining has been there for some time, and they do speak to what we call today mega quarries, that have a qualifier. The report has actually identified the fact that mega quarries are defined as 150 million tonnes of reserves and produce upwards to 10 million tonnes a year. We don't have any quarries in this province that reach that test.

Anyhow, that was interesting, and you can expect that the results of that study on mega quarries will be made available or be of interest to many people.

If we now go to the value of aggregates, this an attempt to do a socio-economic study on aggregates, and they did both an upstream and a downstream—

Interruption.

Mr. Ray Pichette: There's a vote.

In this exercise, they identified that aggregate resources in the upstream side, the production, has a gross output of $2.9 billion, and in the downstream have a gross output of $44.7 billion, accordingly.

There is quite the dissertation on the value of aggregates from a perspective of rehabilitation, particularly in the natural heritage rehabilitation, where it's been seen as having an ecological benefit to the local communities.

The reuse and recycling: Again, I think I've covered most of that in the sense that we're now about 7% of total in recycling, but there was a survey of 11 official plans of major municipalities in southern Ontario, and only three of those official plans made any reference whatsoever to promoting recycling of aggregates. So their conclusions were that much has to be done in that area.

With regard to the reserves—oh, one other point again, just to give the Ministry of Transportation kudos: Between 2005 and 2008, the Ministry of Transportation used 42 million tonnes of aggregate for transportation infrastructure in Ontario. Out of that 42 million tonnes, 8.3 million tonnes was recycled material. It represented about 19.8%.

When one looks at the actual reserves, Ontario has approximately 1.47 billion tonnes of high-quality reserves. High-quality reserves are materials that are actually used for concrete and asphalt. However, in their analysis, only 317 million tonnes of high-quality material within 75 kilometres of the greater Toronto area are left.

When it comes to consumption and replacement, the study articulates that we are depleting by 2.5 to 1 in terms of depletion and replacement.

This report also has some options with regard to maximizing the recovery from existing sites by allowing extraction on common boundaries between sites, road allowances and so forth, in terms of maximizing the return from particular sites in there in order to extend that ultimate reserve.

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Finally, on rehabilitation—and that's a fairly large study—the findings of this study indicate that legislation and the policies are generally well suited to guiding rehabilitation. There needs to be some focus on ensuring that progressive rehabilitation is happening. It seems to be slow. There is no reason for it identified in the report. Rehabilitation in Ontario does have some great examples where it is well blended into the surrounding landscape, and there is quite an opportunity to educate and outreach to the public on rehabilitation.

Finally, just some of the things that you'll probably hear during your deliberations: You'll hear a lot about aggregate recycling, and in 2011, an organization called Aggregate Recycling Ontario was established, which will promote certainly best practices and standards in recycling. I think kudos need to be given to the Ontario Stone, Sand and Gravel Association. This will do some great work in promoting and putting some degree of diligence in getting recycling going even better. There are a number of studies on aggregate sites and rehabilitation that you can see. We are currently ourselves hopefully close to issuing a best practice for rehabilitation to enhance biodiversity.

On the water side, with source protection and other methodologies and legislation—and I do believe we are well integrated with those other provisions—again, studies are being commissioned, predominantly from the industry, but there has been a large effort on studies in water and groundwater recharge.

Finally, there are two groups out there that are actually looking at certification for the sector in terms of raising the bar on the basis of both environmental and social responsibility, and the ministry believes that is a very positive thing.

My apologies for probably going two minutes over, but that's it, Mr. Chair.

The Chair (Mr. David Orazietti): No, your time is good. I appreciate it. Thank you very much for your presentation. We've got 10 minutes for each caucus. Ms. Campbell, go ahead.

Ms. Sarah Campbell: Thank you for that very thorough presentation. I just have a couple of questions for you.

Given the economic climate that we have in Ontario and the cuts to the MNR and MOE, and the fact that self-regulation doesn't seem to work—the MNR's own evaluation in 2002 found some industry operators submitting deficient reports—I'm wondering: What does the ministry think can be done to best modify the act to provide greater oversight of the sites?

Mr. Ray Pichette: That's a loaded question. We haven't really, at this point in time—first of all, I want to emphasize that we have a committed staff that are out there on the landscape, ensuring that those operators that blatantly violate the legislation are dealt with. As you can appreciate, we're focused very much on a risk-based approach and our focuses are on those operators that are in constant violation, rather than to be there with those operators that are probably in compliance 100% of the time.

We are out there on the landscape also trying to follow up with a degree of prevention with the operators to make sure that they are very clear about their mine plans, their site plans, and the rules of the game.

We do act and react on complaints. There's a host of examples, if not just from a warning perspective, to make sure that operators are compliant with the policies.

It's difficult. I mean, we're all in a fiscal austerity mode right now. An interesting element that I thought the commissioner brought out, and this is my personal opinion, on third party audits: certainly a possibility, but frankly, we do feel that our committed workforce is out there doing the best job they can.

Ms. Sarah Campbell: Thank you for that, and there's no doubt—I don't question the commitment or the skill

set of any of the employees working for the MNR. My sense is just that there aren't enough. We looked at the number of sites. I think it was close to—what was it, 2,000?

Mr. Rosario Marchese: It was 5,000-something.

Mr. Ray Pichette: About 5,800.

Ms. Sarah Campbell: Okay, 5,800. So it's impossible for the limited numbers to be everywhere all at once.

But I'm also wondering what you thought of the Environmental Commissioner's suggestion of using extraction-based levies to help fund some of the oversight.

Mr. Ray Pichette: What I can tell you is that a 2007 increase did provide an opportunity for the ministry to receive a higher appropriation dedicated to the agri-resources program, so we were able to hire an additional 17 new inspectors as a result of that increase. So it's not unprecedented, I guess. We did that in 2007.

Ms. Sarah Campbell: Okay, thank you.

Go ahead.

Mr. Rosario Marchese: Just to follow up on that, I have to congratulate you on the valiant approach you bring to the issue, because you make it seem like you've got everything under control, which is really, really nice, and then we listen to the Environmental Commissioner and we realize there are so many problems. But it's your job to put that face to the problem, and I appreciate that.

Tell me, how many inspectors do you have who go out in the field?

Mr. Ray Pichette: We have somewhere between 32 and 34. As you can appreciate, you know, vacancies, trying to fill them, people are retiring, so I think we're around 32 to 34. I think we have 32 warm bodies right now and two vacancies.

Mr. Rosario Marchese: And there is a bit of turnover, retirements and—

Mr. Ray Pichette: Always, yes.

Mr. Rosario Marchese: That requires training; people have to get up to speed and so on. So when you've got 30 to 34 staff, with turnover and training, and you've got 5,500 sites, it's a bit of a problem, wouldn't you say? Because relying on people complaining is simply not the way—I mean, it's useful to have, but it's not the way to do it, first; second, you're looking at prevention, but I don't see how that can work when there is self-regulation, which doesn't make any sense. Yes, you've got committed staff, but it just doesn't work.

Mr. Ray Pichette: If I may, sir, a couple of things. We have more inspectors in southern Ontario than we do in northern Ontario because of the amount of production that goes on. This can vary between inspectors, but an inspector can have under their portfolio or their geography somewhere in the order of 180 to 220 sites.

From a perspective of the compliance reports, the concept there is that the operator must take the site plans, the conditions, the standards, and actually perform a self-assessment of their site and the compliance, write it down, sign it in, submit it. So it's somewhat of a declaration that they are in compliance, or, if they're not in compliance, that they are going to remedy that within 90 days. If they falsify that document, they are actually automatically in suspension, even though they don't know it.

Our intent here, on a risk-based approach, is to visit, so the inspectors get these compliance reports, look at them and say, "This is a bad one"—

Mr. Rosario Marchese: I understand. Quite right; good. I appreciate that.

So these people present their report, because they are doing it themselves. They submit it to you, and then you do an analysis; you verify whether it's true or not. How many have you found to be noncompliant?

Mr. Ray Pichette: We review all the compliance reports that are submitted, and then, from that, the inspector will set up a priority listing on those that might seem suspicious. Their targets annually are to visit at least, minimum, 20% of the sites that they have in their piece of geography.

Mr. Rosario Marchese: Which we hear probably doesn't happen, given that one person has 180 to 220 sites—

Mr. Ray Pichette: No. It happens.

Mr. Rosario Marchese: —and they write reports. Okay. So how many were noncompliant? Do you have those numbers?

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Mr. Ray Pichette: No, I'm afraid I don't have that number.

Mr. Rosario Marchese: Does anybody have them, from the other staff? But you keep track, right?

Mr. Ray Pichette: We do put charges on the website.

Mr. Rosario Marchese: Is it possible to send that to us ASAP? I'm interested to know how many of these folks are levied the fines, because you guys do enforcements regularly, as you say.

Mr. Ray Pichette: What we can provide you, sir, is some indication of how many orders are issued, how many charges, warnings, things of that nature, rather than give you—how many are in noncompliance is a little subjective.

Mr. Rosario Marchese: Okay, that might help. Yes, that would be useful, if you don't mind.

The other question has to do with rehabilitation, because you say that rehabilitation orders are enforceable. I was curious to hear you say that some people who own the land don't want their land to be rehabilitated, which was fascinating. Do we know how many sites have not been rehabilitated?

Mr. Ray Pichette: When I mentioned the landowners who wished not to have their sites rehabilitated, that's only abandoned sites that predated any provincial regulations.

Mr. Rosario Marchese: So 1970, whatever. Okay, so forget them.

Mr. Ray Pichette: All licensed and permitted sites require mandatory rehabilitation. There is no discretion there.

Mr. Rosario Marchese: We understand that some sites, at least from the Environmental Commissioner, have not been rehabilitated. Is that true?

Mr. Ray Pichette: I believe he was speaking to the abandoned sites. We'd have to check Hansard.

Mr. Rosario Marchese: All right. So every other site that has been excavated for the purposes of aggregates, once they've been done, or exhausted, they have all been rehabilitated, as far as you know.

Mr. Ray Pichette: Yes. They have a legal requirement to rehabilitate, both in a progressive and final nature. If for some reason the company becomes insolvent, there are provisions as well.

Mr. Rosario Marchese: You heard my question about the aggregate operators responsible—

The Chair (Mr. David Orazietti): Mr. Marchese, if you've got something very brief, you can—

Mr. Rosario Marchese: —for assessing their own compliance with site plans. The Environmental Commissioner said that would be okay, as long as we had enough staff to monitor that, and he says you guys don't. What do you say?

Mr. Ray Pichette: I never said we didn't. It's kind of difficult for a public servant in this day and age to say that we have shortcomings. We have a committed staff doing the best they can.

Mr. Rosario Marchese: Sure. Thank you.

The Chair (Mr. David Orazietti): Thank you. Liberal caucus: Mr. Colle, go ahead.

Mr. Mike Colle: Yes, thank you, Mr. Chairman. Just in terms of the application process, it sort of strikes me as odd that the notification area is only 120 metres from the site. How can it work in terms of getting the public involved if it's only a 120-metre notification requirement?

Mr. Ray Pichette: Well, Mr. Colle, there are postings at the site as well, big signs on all faces that have visibility from the road. There are notifications in the paper. The 120 metres is personal notification in the form of a registered letter or in-person notification.

Mr. Mike Colle: Would it be that onerous to expand this? I'm just seeing the practicality of this. Why not make it 1,000 metres, 2,000 metres? Because you're already notifying through the papers and you're posting to the stakeholders and municipalities. Given that this is not downtown Brampton, where you'd have to notify all householders when you do any kind of rezoning application, would it be that onerous or that expensive to call for a 1,000-metre or 2,000-metre notification area?

Mr. Ray Pichette: Just to give you a sense of the 120, it was an appropriate number for the day. It was very much in line with some of the Planning Act notification aspects. I would agree with you, Mr. Colle, that it's old and it could be expanded.

The one thing I always have to qualify is that we, and those who are helping ministers and governments create public policy—as much as you've got the large players and the big multinationals, we have a lot of local businesses too. We're trying to create minimum standards in terms of notification. We do encourage all companies to go as far as they can in the notification side.

Mr. Mike Colle: Okay. Also, in terms of the period of notification, it's only 45 days. Again, would it be onerous on people if it were doubled to 90 days? What's the downside of doing that?

Mr. Ray Pichette: There is actually no downside. In fact, I would even go so far as saying that we should have upgraded that standard and notification period, because the Planning Act's notifying period is now 120 days.

Mr. Mike Colle: Yeah, so it probably would work. I don't want to put words in your mouth, but if it went to a compatible number like 120 and 120, there would be some uniformity there in terms of allowing the public the access to input into the process.

Mr. Ray Pichette: Absolutely.

Mr. Mike Colle: The other thing is that the licence requirements—the proponent has to come up with a site plan, reports, prescribed conditions, notification. These are all individual reports, or would they all be combined into one report that one consultant might do for the proponent? I'm not sure how you're describing these.

Mr. Ray Pichette: Normally they're separate reports because, for example, the way the standards are driven, there are different categories. If your undertaking is planning a quarry below water, fairly extensive hydrogeological studies are required, so that will be a single report. There are natural environment studies; that will be a single report. Cultural heritage studies by a licensed archaeologist will be another report. So they're normally separate reports, in some regard. Then there's possibly a report, depending on the activity and the undertaking, that tries to integrate them, but there will still be the separate reports.

Mr. Mike Colle: How long might this take, this process where these reports—how long do they have before these reports are filed?

Mr. Ray Pichette: Again, the way the process is, they'll come in with an application with all these reports and site plans, and then our job is to deem whether it's complete or not. We don't comment on content but on whether it's complete. Those reports leading up to that often take several years because, particularly if there are water implications, you have to go through a few cycles.

Mr. Mike Colle: So there's no strict time limit such that reports have to be in by a certain date? It depends on the complexity of the site and what's involved.

Mr. Ray Pichette: Yes. There is no set time in any preplanning, pre-work. The clock doesn't start until there's an actual completed submission, a completed application, that has met all the standard requirements.

Mr. Mike Colle: Is this where we get the complaints, with the proponent saying it takes 10, 12, 15 years to basically get a site working? Are these reports part of the delay in terms of getting the quarry operating, or are there other issues that drag the time out before the pit is operational?

Mr. Ray Pichette: Prior to the 1997 act, we would have applications in the 15-year range. That isn't really

allowed today. So if some studies—it would depend on the undertaking. For example, an endangered species study could take several years. Water studies could take a couple of years before you get conclusive information needed for the application. So it could be anywhere from six months for a small operation, but three, four years of studies prior. Once they decide to come with an application, and it's deemed complete, they've got two years to fulfill the process requirements of the standards.

Mr. Mike Colle: Okay. Also, in terms of the mitigation you talked about, especially with dust, when you talk about that, are you also talking about the mitigation of dust in the transport of the material? I know they have that heavy metal mesh over the dump trucks. Or are you just talking about the mitigation on the actual site when you talk about dust control?

Mr. Ray Pichette: On the site. I think the dust panels over trucks are under the—

Mr. Mike Colle: MTO?

Mr. Ray Pichette: —MTO legislation. There are a host of ways of mitigating dust, particularly using water on roadways, and spreaders. We know they have to do that, so we make them do it right up front.

Mr. Mike Colle: And one final question in terms of the whole issue of aggregate extraction. In most things in terms of compliance, there are always the outliers. There are the 10-percenters or sometimes the one-percenters that cause all the problems. Is there any kind of breakdown? Is it always 10% of people that basically give you all the work, or is it right across the board?

Mr. Ray Pichette: It does vary, but you'll find certain operators receiving far more complaints because of their interpretation of the standards versus maybe ours and the local. We do encourage local communities to fully understand what is going on in those sites. The site plans are public; conditions of the licence are public. There's nothing really from our perspective to hide, so we do encourage local community watchdogs to say there's a complaint. So I would say, on average, there are certain operators that we do find we probably have more issues with than—

Mr. Mike Colle: Is there anybody red-flagging the outliers to give them some kind of notice that they can't continue this pattern of negative behaviour? Is there anybody that can put them on a list and say, "They have this record of"—I know there are liability issues there, but does anybody red-flag these operators?

Mr. Ray Pichette: We do have, again, one of the considerations under section 12 of the Aggregate Resources Act. When the minister makes a decision on licensing or the Ontario Municipal Board makes a decision on licensing, the history of compliance can be considered.

Mr. Mike Colle: By the minister, but it's not made public, right, the public access?

Mr. Ray Pichette: I do believe our charges are posted on our website, so it is public.

Mr. Mike Colle: Okay. Anyway, I want to thank you for a very clear presentation in good, clear Canadian Tire English to make us understand this very complex presentation. Thank you.

The Chair (Mr. David Orazietti): Okay, folks, you've got your 10 minutes, but we've got four minutes to a vote, so the committee will recess for five to 10 minutes to allow members to vote and then we'll come back and continue with 10 minutes for questions from the Conservative caucus.

The committee recessed from 1713 to 1724.

The Chair (Mr. David Orazietti): Okay, folks, we'll get started. The Conservative caucus has 10 minutes for questions.

Interjections.

The Chair (Mr. David Orazietti): Excuse me, folks at the back. If you don't mind, have a seat or take the conversation outside; it would be greatly appreciated. Thank you very much.

Ms. Jones, go ahead.

Ms. Sylvia Jones: I have a number of questions based on your presentation, which was very detailed, thank you. My first one starts with page 6, where you talk about policy framework for aggregates. You talked about other legislation that plays a role as permits are given or not given, and you said "the federal Fisheries Act," and then you said "at this point in time." Can you clarify that, please?

Mr. Ray Pichette: Maybe I shouldn't have. There is some suggestion right now that the federal level is altering the Fisheries Act through their process or their budget bill, and I'm sorry to say I don't exactly know all the details around that.

Ms. Sylvia Jones: Okay, fair enough. On page 7, under "Recycling of Aggregates," I have also heard that MTO is doing a good job of incorporating recycled aggregate into their requests for road building and rebuilding. I have also heard, and I think it's actually in the state of the resource study, where municipalities have not come on board to the same extent. Is there an opportunity, as we go through the ARA review, for us to motivate municipal governments to include more recycled aggregate in their road rebuilding projects?

Mr. Ray Pichette: Yes.

Ms. Sylvia Jones: How?

Mr. Ray Pichette: Some municipalities are very much into recycling and encourage it, either in separate sites or within our licensed sites. Others, for some reason, whether it's a bad experience in the past—you do hear about a bad experiences where they used recycled material, the project failed and you had to go out and remove what they did and come back. But I think the establishment of this Ontario aggregate resources organization, collectively bringing that sector together for specifications best practices, will show that recycled aggregates that meet specifications should be used.

I think your committee has an opportunity in that direction, whether it be some form of incentive or regulatory requirement, to encourage municipalities to get on the bandwagon.

Ms. Sylvia Jones: Okay. Thank you.

On page 9, you talk about sort of the history of where the Aggregate Resources Act first came into place. How were permits given out pre-1971?

Mr. Ray Pichette: Municipally: municipal zoning, municipal authorities. In some cases, it just happened.

Ms. Sylvia Jones: And they would have parameters just like an application would today, in terms of "thou shalts"? I know they wouldn't have a rehabilitation component; I understand that. But in terms of the specifics of when they could extract—times, dates, that kind of thing—are they consistent?

Mr. Ray Pichette: No, it was totally variable for municipalities, particularly in the 1950s and 1960s. They would certainly authorize the operations through some form of zoning, if they had that capacity for zoning. The rules would vary from municipality to municipality.

Ms. Sylvia Jones: So, for a period of years now, MNR has been responsible for oversight and regulation. Do you have those pre-1971 permits?

Mr. Ray Pichette: Yes. Of course, some of them actually became abandoned pits before the 1971 legislation.

Ms. Sylvia Jones: Yes. I'm specifically talking about ones that are still active.

Mr. Ray Pichette: Yes, they were grandfathered. I know that's not always an appropriate word, but the 1971 Pits and Quarries Control Act grandfathered those sites and raised the standards. To give you some sense, I could tell you that most of the Niagara Escarpment quarries are all pre-1971. In fact, a large part of the production we're still relying on is pre-1971 sites.

Ms. Sylvia Jones: Okay. Would you be able to provide to this committee how many pre-1971 permits are still in active operation? Again, I'm thinking in terms of the active, not the abandoned or the finished.

Mr. Ray Pichette: I just want to qualify, Ms. Jones. The one thing we need to remember is that some of those sites, in theory, became active in 2007. So we need to qualify, because when we did redesignate new lands, the sites that existed in those municipalities became grandfathered as well under the new legislation.

Is there any area in particular, like southern Ontario? When the Pits and Quarries Control Act first came into play, the only area that was designated was the Niagara Escarpment. The rest of the province was still under municipal control.

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Ms. Sylvia Jones: Okay. I think it's important for us as a committee to understand how many permits we're dealing with under the Aggregate Resources Act and how many were grandfathered.

Mr. Ray Pichette: We'll get you that information on a time basis too.

Ms. Sylvia Jones: Because there is a bit of a differentiation.

The last question, because I know other members had questions as well: On page 17, where you talk about the application process for new aggregate licences of private land, I don't see anywhere where it talks about a ministerial zoning order. Where in this labyrinth of approvals and applications would a ministerial zoning order ever be used?

Mr. Ray Pichette: This is a minister's zoning order under the Planning Act?

Ms. Sylvia Jones: Yes.

Mr. Ray Pichette: It isn't part of this process.

Ms. Sylvia Jones: So that is something that is forced on you from another ministry, from Municipal Affairs and Housing. Is that right?

Mr. Ray Pichette: I would say that that order is at the discretion of the Minister of Municipal Affairs.

Ms. Sylvia Jones: And that can happen at any point in the application process?

Mr. Ray Pichette: It can happen at the discretion of the Minister of Municipal Affairs at any time.

Ms. Sylvia Jones: Okay. Thank you.

The Chair (Mr. David Orazietti): Further questions? Mr. O'Toole, go ahead.

Mr. John O'Toole: Yes, just a couple here. Thank you very much for a very comprehensive, or a speed-read on a very large file—looking at your books and the background—so I'm qualified to not ask questions of any detail.

Just a clarification: I'm just following up on Sylvia's questions with respect to grandfathering. Would some of the expansions occur under the same sort of relationship with MNR? A good performer who was looking to expand an existing pre-1971 that's operational, as need arises: Would that be treated in the same way? They'd have done none of these studies that would be required.

Mr. Ray Pichette: Mr. O'Toole, the word "expansion" isn't quite a word we use. Any expansion of an existing site is actually a new application. It starts all over again.

Mr. John O'Toole: It's new, so that's what would happen. So there probably are pits like that.

On slide 13 in your deck—these are on private lands—there are 3,720 current, and there are about 45 new per year. Are some of those 3,700 sites included in your pre-1971?

Mr. Ray Pichette: Yes.

Mr. John O'Toole: How many of those would be large ones, like 20,000-plus tonnes per year? I think Ms. Jones was asking about—it wouldn't be bad if we had sort of that kind of map. I agreed very much with that.

Mr. Ray Pichette: Yes, we can get that.

Mr. John O'Toole: On an even smaller scale, I'm looking at the wayside pits. I've always heard the term but I wasn't really sure. These are supposed to be short-term. Would they be used for storing sand for roads and stuff like that?

Mr. Ray Pichette: They can be.

Mr. John O'Toole: Could they be recycling?

Mr. Ray Pichette: Yes, they could.

Mr. John O'Toole: I've seen them doing grinding and all that kind of stuff—asphalt for road work.

Mr. Ray Pichette: The one thing that the wayside pits—again, they're only public authorities; that's the

first thing, although they might be operated by the contractor. The contractor has the project. They'll go in there and extract the aggregates. A part of their site plan could involve some form of crushing because of the type of rock, yes. It's to be used on that project and that project only. Eighteen months later, it should be fully rehabilitated.

Mr. John O'Toole: Do they go through the same detailed studies for water and—

Mr. Ray Pichette: Yes, but they don't require zoning. The wayside permit is exclusively a provincial decision.

Mr. John O'Toole: Very good.

These are very comprehensive flow charts in terms of time. I would imagine there would be contact with MNR if someone is assembling land and trying to determine how possible it is to develop a site. They would have studies done before they put an offer to purchase in and all that kind of stuff, so I would imagine there's a lot of work done before they ever go through this process of the two years. Is that a correct assumption?

Mr. Ray Pichette: If you're saying, do they contact us prior to—

Mr. John O'Toole: Sure.

Mr. Ray Pichette: It varies. It really does.

Mr. John O'Toole: But generally, they would have to know, or if they've done some study prior to even contacting you to see if there's any—can they do test holes and stuff like that without—

Mr. Ray Pichette: Yes, if they have the rights to access the land, they do test holes; absolutely. They'll do their exploration. We won't be aware of it. It could be right up to the day we get the application.

Mr. John O'Toole: Yeah, and I follow one quite closely that's in sort of southwestern Ontario where they've applied and at the end were refused, and they've got a fortune invested in all these studies. Is that kind of a normal thing?

Mr. Ray Pichette: Specifically the crushed-stone quarries are very expensive now in terms of the work that is needed just to make the application, let alone the application process, particularly if it goes to the Ontario Municipal Board.

Mr. John O'Toole: Yes. You made a brief kind of reference to the federal change of expediting this process without softening or weakening our environmental standards. Do you think this process here should expedite—it is a resource.

The Chair (Mr. David Orazietti): Mr. O'Toole, just briefly wrap it up. You're on to 12 minutes now, so if you want to just ask him to—

Mr. John O'Toole: Do you see that as part—not of softening the environmental standards, but expediting? This is an important resource for the economy and infrastructure of Ontario.

Mr. Ray Pichette: I think the process can always be made more efficient without undermining the environmental and social objectives.

Mr. John O'Toole: Thank you.

The Chair (Mr. David Orazietti): Thank you for your presentation today. We appreciate you coming in. That's all the questions we have for you.

Mr. Ray Pichette: Thank you.

Ms. Sylvia Jones: Chair, if I may?

The Chair (Mr. David Orazietti): Ms. Jones.

Ms. Sylvia Jones: In the same way that we asked or requested that the commissioner come back if we needed any further information or clarification, I would hope that the very resourceful staff would do the same.

The Chair (Mr. David Orazietti): Absolutely. I don't see a problem with that.

Mr. Ray Pichette: Yes. Thank you.

The Chair (Mr. David Orazietti): Thank you very much. We appreciate your time.

Mr. Mike Colle: Mr. Chair, I just referenced earlier that I would like some requests made of our research team for all members of the committee if they wish to have it.

The Chair (Mr. David Orazietti): Okay. Now is the time.

Mr. Mike Colle: I've written this out and I'll give it to the research team. I would just ask for not a comprehensive but a good overview for us of these issues:

One, the typical haulage cost when a demolition takes place on a typical site in, let's say, a city—what the costs are in demolition, and also the extraction of the debris off-site, if there's any cost incurred in fees, municipal or provincial;

Two, a quick look at what the UK charges to encourage reuse of demolition materials, as referenced by the Environmental Commissioner;

Also, perhaps a look to see if there is any other jurisdiction that has put together some sort of self-regulatory oversight model for governing aggregate extraction; and

Lastly, a look at other jurisdictions in North America that would have updated aggregate extraction legislation that might be of help to us—to see if there is any updated legislation that might be of value for us.

I would just ask research to bring those forward when they can.

The Chair (Mr. David Orazietti): Okay. Anything further of research? Ms. Scott.

Ms. Laurie Scott: I'll ask a question, maybe, of research. Was anything in the SAROS report ever implemented? If so, what was it? I didn't get time to ask questions of the ministry, so it might just be a phone call to them. I just didn't get it in.

The Chair (Mr. David Orazietti): Anything further? Okay.

Interjection.

The Chair (Mr. David Orazietti): What research provides is going to be provided for the whole committee.

Okay, folks, thanks. That's it for today. The committee is adjourned.

The committee adjourned at 1739.

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