

June 27, 2014

Glenn Harrington, Principal
Harrington McAvan Limited
6882 14th Avenue
Markham ON L6B 1A8

**Re: MNR Comments on Tri City Lands Ltd., proposed Spencer Pit:
Category 3, Class “A” Licence Application under the *Aggregate Resources Act*,
Part of Lots 14-16, Lots 17 & 18, Concession B,
Township of Guelph-Eramosa, County of Wellington**

Mr. Harrington:

The Ministry of Natural Resources (MNR) Guelph District Office is in receipt of an application for the proposed Spencer Pit – Category 3 (pit above water table), Class “A” Licence under the *Aggregate Resources Act* (ARA). A Summary Report (April 2014), Hydrogeological Assessment (February 2014), Natural Environment Technical Report: Level 1 and 2 (February 25, 2014) and various other reports have been submitted in support of the licence application.

MNR understands that the proposed licence area is approximately 51.16 hectares, with 42.45 hectares proposed for extraction. The application is for a new pit with a proposed annual tonnage limit of 650,000 tonnes. The water table has been estimated to be located within the bedrock at elevations ranging from approximately 295 to 309 MASL. Extraction will be limited to no lower than 1.5 m above the water table.

The Speed River Provincially Significant Wetland (PSW) Complex and the Ellis Creek PSW Complex are in close proximity to the proposed licence area. We note that the majority of the site consists of agricultural fields used for cash crops with some meadow habitat. A 6.03 hectare woodland (mainly deciduous) is located along the south-central portion of the property. Progressive rehabilitation of the licence area is proposed to return the site to an agricultural use.

MNR staff has reviewed the technical reports and Site Plans (dated April 2014) and offer the following comments for consideration:

Natural Environment Technical Report: Level 1 and 2

Significant Woodlands

Section 5.5.5 of the Natural Environment Technical Report concludes that the woodland within the licence boundary does not meet the criteria for significant woodland. MNR notes that removal of the entire woodland is proposed.

- Under Section 5.5.1 (Woodland Size): MNR notes that Section 3.2 (Literature Review) lists Wellington County Official Plan (1999) but does not include Wellington County Official Plan Amendment (OPA) 81. Wellington County OPA 81, which is in effect, has changed the significant woodland size criteria for the County to 4.0 hectares in rural areas (10.0 hectares for plantations). The woodland located within the proposed licence area is approximately 6.03 ha in size. Therefore, the report's criterion for significant woodland needs to be reassessed based on OPA 81 and the Natural Environment Technical Report and Site Plans should be updated accordingly.
- With respect to proximity to other woodlands or habitats, the Natural Heritage Reference Manual (NHRM) provides the following guideline: "*Woodland areas are considered to be generally continuous even if intersected by narrow gaps 20m or less in width between crown edges*". Another significant consideration for the ecological function criteria is proximity to other habitats. The NHRM suggests that if a woodland that meets the size threshold criteria is within a specified distance (e.g., 30 m) of another significant feature, it could contribute to the determination of significance.
- Section 5.5.2 – Ecological Function (Woodland Diversity): The Natural Environment Technical Report states that "*Approximately 41% of the plants recorded from the proposed licence area were exotics. As such, there is no woodland diversity function provided by the woodland*". Please clarify if this statistic is for species collected in the woodland only or the entire proposed licence area. This criterion should be assessed using data collected from the woodland only.

Species at Risk

- The Natural Environment Technical Report identifies that Barn Swallow (*Hirundo rustica*), a threatened species, is presumed to be nesting within the northern limits of the proposed licence area (in a large wooden barn) outside of the proposed extraction limits. Please identify the size of the buffer proposed to ensure that nest habitat is protected.
- MNR notes that Yellow Bumble Bee (*Bombus fervidus*) was identified within the proposed extraction area. This species prefers grassy, open areas, such as forest clearings and meadows. Although the NHIC lists this species as S4, MNR is aware that a COSEWIC status report is underway and that the International Union for Conservation of Nature (IUCN) assessment will be completed in September 2014. MNR understands that the species is currently assessed to be included as vulnerable on the IUCN Red List, pending peer review. As noted in the Significant Wildlife Habitat Technical Guide, species with populations known to be experiencing substantial declines in Ontario can be considered species of conservation concern. Recent research has shown significant declines in *B. fervidus* populations in southern Ontario and throughout Eastern North America. It is possible that the species will be evaluated by COSSARO in the near future. MNR is of the opinion that due to the probable decline of the species, the status of Yellow Bumble Bee (*B. fervidus*) will need to be updated to reflect current information. It is likely much more rare than previously listed and no longer S4. If the species is S3 or lower the site would be considered candidate significant wildlife habitat. If the licence was proposing to extract only within the agricultural crop lands and avoid the meadow habitat, MNR would not be as concerned with potential impacts to this species.

- The proposed licence area is a historical location for Rusty-Patched Bumble Bee (*B. affinis*), a habitat generalist that utilizes forest and grasslands. This species is listed as endangered on the SARO list. MNR understands that *B. affinis* is often confused with Half-black Bumble Bee (*B. vagans*) which MNR notes was found within the proposed licence area. An expert in differentiating the two species is necessary to confirm identification. Due to the similarity between the two species, MNR is of the opinion that further work is required in 2014 to confirm the presence/absence of *B. affinis* within the proposed licence area. Surveys should be done by an expert familiar with the two species, or by a person less qualified if photographs are obtained and analysed by an expert in *B. affinis*. If the licence was proposing to protect the woodland and meadow and extract only the agricultural crop lands, MNR would not be as concerned with potential impacts to this species.
- Eastern Wood Pewee (*Contopus virens*) was assessed by COSSARO as special concern and was added to the SARO list on June 27, 2014. Therefore, because its habitat is candidate significant wildlife habitat, the Natural Environment Technical Report needs to be updated to reflect the status of this species, and any implications within the proposed extraction area should be reflected in the Report and on the Site Plans.
- MNR is of the opinion that the snag density surveys conducted by Stantec were adequate at the time the surveys were undertaken. However, because Little Brown Myotis (*Myotis lucifugus*), Northern Myotis (*M. septentrionalis*) and Eastern Small-foot Bat (*M. leibii*) have since been added to the SARO list as endangered, more rigour in the surveys is now required. It must be determined whether these species are using the woodland as material roosts. MNR recommends assessing the wooded habitats for snags initially, and if snags are present and could be impacted (e.g., removed), MNR recommends acoustical monitoring near the snags to determine whether any of the bat species identified above are present and using the snag. If the licence was proposing to protect the wooded area and extract only the agricultural crop lands, MNR would not be as concerned with potential impacts to bats.
- The presence of Prickly Ash indicates the possible presence of Giant Swallowtail Butterfly (S3). If the species is present there is candidate significant wildlife habitat within the proposed licence boundary. If there is potential to damage or destroy the habitat of Giant Swallowtail Butterfly, MNR recommends a survey for this species when it will be flying.

Potential Environmental Effects and Mitigation Measures

- Section 7.2. (Speed River Provincially Significant Wetland) identifies that a 15m setback is proposed from the eastern limit of the pit between the extraction limit and the licence area boundary. This section notes that the Speed River Complex is separated from the proposed licence area by an existing rail corridor. The Natural Environment Technical Report should identify the width of the rail corridor. In addition, this section states that, “when the extraction setback is combined with the existing rail corridor and upland FOC2-2 community, the wetland communities will be afforded in excess of 30 m of separation from the pit”. Please identify the separation distance from the PSW in areas where the setback is not combined with FOC2-2.

Site Plans

Please be advised that the Ministry may provide additional comments on the Site Plans when the above comments on the Natural Environment Technical Report have been addressed. However, MNR can offer the following preliminary comments on the Site Plans for consideration:

- As noted in the Natural Environment Technical Report, Barn Swallow is presumed to be nesting in a wooden barn within the proposed licence area outside of the area proposed for extraction. The Site Plans should identify the buffer distance between the proposed extraction area and the barn to ensure that Barn Swallow habitat is protected.
- On the 1: 7500 inset map (Existing Features Plan), the map appears to be incorrectly drawn showing the proposed licence boundary aligning with the CNR line. This differs from what is shown on the main map (1:2000) for the Existing Features Plan.
- According to the Natural Environment Technical Report, a portion of the woodland (FOD 3-1) within the proposed licence area is dominated by trembling aspen with elm and ash as commonly associated. This should be identified on the Existing Features Plan.
- MNR recommends that the meadow habitat to the west of the woodland within the proposed licence area be identified on the Existing Features Plan to distinguish this habitat from the agricultural crop areas. The Natural Environment Technical Report noted that this habitat was preferred by bumble bees.
- For consistency, MNR recommends that the following information be added to Phase B technical note 1: "Removal of trees in the woodlot will be restricted to outside the breeding bird season".

Editorial Comments

- Pg 1 of the Summary Report identifies that the wooded area within the proposed licence boundary is 5.0 hectares. However, the size of the woodland is 6.03 hectares as identified in the Natural Environment Technical Report.

Summary

In light of the above comments, the Ministry objects to the proposed Spencer Pit (Category 3, Class "A") licence application at this time.

The Ministry would appreciate a response to the comments provided on the technical reports and the Site Plans. Please be advised that MNR staff may have additional comments on the technical reports and the Site Plans when a response to the above has been provided for review.

The Ministry would be pleased to discuss the content of this letter with the project team. Please contact the undersigned at 519-826-4912 or annemarie.laurence@ontario.ca if further comment or clarification is required.

Yours truly,

A handwritten signature in cursive script that reads "AM Laurence".

Anne Marie Laurence
A/District Planner

cc (email): Ian Thornton, Resources Operations Supervisor, MNR
David Marriott, District Planner, MNR
Diane Schwier, Aggregate Technical Specialist, MNR