David Suzuki Foundation

Vancouver (Head Office)
219-2211 West 4th Avenue
Vancouver BC, V6K 4S2
604 732 4228 tel
604 732 0752 fax

Toronto
421-215 Spadina Avenue
Toronto ON, M5T 2C7
416-644-1032 tel
416-644-0116 fax

Ottawa
606-251 Bank Street
Ottawa ON, K2P 1X3
613 594 5845 tel

July 16, 2012

Tamara Pomanski
Clerk pro tem./ Greffière par intérim
Room 1405, Whitney Block/Bureau 1405, édifice Whitney
Queen's Park, Toronto, ON  M7A 1A2

Dear Ms. Pomanski

Please accept this document as our written submission to the Standing Committee on General Government in reference to their review of the *Aggregate Resources Act*.

The David Suzuki Foundation is a non-profit, charitable public interest organization. We work with government, business and individuals to conserve our environment by providing science-based research, education and policy work.

Our mission is to protect the diversity of nature and our quality of life, now and for the future. Our vision is that within a generation, Canadians act on the understanding that we are all interconnected and interdependent with nature.

Our top goals are:

**Protecting our climate** — by ensuring that Canada is doing its fair share to avoid dangerous climate change and is on track to achieve a safe level of greenhouse gas emissions;

**Transforming the economy** — by working to ensure that Canadians can maintain a high quality of life within the finite limits of nature through efficient resource use;

**Protecting nature** — by working to protect the diversity and health of Canada's marine, freshwater, and terrestrial creatures and ecosystems;

**Reconnecting with nature** — by ensuring that Canadians, especially youth, learn about their dependence on a healthy environment through outdoor education; and,

**Building community** — by encouraging Canadians to live healthier, more fulfilled and just lives, by providing tips on building Earth-friendly infrastructure, making smart energy choices, using efficient transportation, and being mindful of the products, food and water we use.

We would like to thank the Committee with providing us with an opportunity to provide input on this important initiative.

In our opinion there is no question that the Ontario *Aggregate Resources Act* (ARA) and relevant regulations and policies need to be updated and revised to reflect current and future needs and to end the conflict between people and aggregate producers.

There are many reasons why the ARA needs to be changed. Chief amongst them are: (1) the fact that the ARA allows for pits and quarries to be dug anywhere including on protected lands; (2) it bypasses the provincial environmental assessment process; (3) it does not require proponents to provide proof of need for the aggregate to be mined; (4) it requires that pits and quarries be sited "close to market"; (5) it does not take protection and preservation of farmland and source water into account; and, (6) it does not consider the economic value of natural capital and ecosystem services that are essential for healthy communities.

We believe there is a way to amend the legislation that would allow for the continued supply of aggregate necessary to meet the needs of society without the countless conflicts that currently prevail.

It is widely acknowledged that extracting aggregates from the landscape is an intrusive activity that has the potential to cause long-term environmental impacts on publicly important resources and degrade the quality of life of local communities. Thus, aggregate operations routinely generate conflict between proponents and concerned citizens.

Depending on the geographic circumstances, these problems may include, but are not limited to, the following:

- Loss of prime agricultural land from production;
- Reductions in property values for nearby landowners;
- Adverse impacts on the surface water and groundwater quality and quantity;
- Adverse impacts on fish and fish habitat;
- Interference with threatened or endangered species or their habitat;
- Wildlife habitat fragmentation and disruption of “green corridors”;
- Increased traffic congestion, road infrastructure degradation, road-safety concerns, and, increases in air pollution and greenhouse gas emissions due to increased truck traffic on local and regional road systems;
- Impacts on tourism resulting in associated adverse impacts on local and regional economy, jobs, recreation, and culture; and,
- Increased levels of noise and dust in otherwise quiet rural environments;

We argue that changes in the legislation (including the regulations and relevant operational policies) are needed, particularly in the areas of:

- Defining key areas within the province in which aggregate extraction should not be allowed under any circumstances (e.g. specialty crop designation areas, important ecological areas, areas with significant habitats of endangered and threatened spaces and species; provincially significant wetlands and, Areas of Natural and Scientific Interest (ANSIs);
- Defining areas where extraction below the water table should not occur (e.g. in areas with Class 1-3 agricultural lands; areas adjacent to wetlands);
- Protection of the agricultural land base to ensure long-term food security;

- Community engagement procedures (e.g. public comment and input) on permitting and on the site plan amendment processes;
- Increasing the role and participation of municipalities in the decision making process;
- Source water protection;
- Substitution, reduction, reuse and recycling of aggregate resources;
- Site rehabilitation;
- Compliance monitoring and enforcement;
- The per tonne licence fees and royalties charged on extraction of aggregates;
- The scale and scope of environmental assessment needed to identify important environmental, social and health impacts (including impacts to infrastructure like roads and bridges) associated with aggregate extraction and transportation; and,
- Assessment of cumulative impacts arising from multiple projects within defined areas.

Many of these legislative, policy and operational changes were addressed in the excellent 2011 report published by the Canadian Institute for Law and Policy entitled "***Aggregate Extraction in Ontario: A Strategy for the Future***"[1]. We refer you to that document and fully support its recommendations.

The David Suzuki Foundation is also a member of the Ontario Greenbelt Alliance, which has formulated its priorities for aggregate reform in Ontario. A copy of this list of priorities is attached for your consideration.

Additionally, the Ontario *Clean Water Act* (CWA) requires that local communities assess existing and potential threats to their water and that they set out and implement the actions needed to reduce or eliminate these threats. The Act also empowers communities to take action to prevent threats from becoming significant; requires public participation on every local source protection plan; and requires that all plans and actions are based on sound science. However, source water protection is NOT addressed in aggregate resource siting and licensing procedures. In fact, under the *Aggregate Resources Act*, the role of municipalities and the public in aggregate licensing is quite restricted, which hampers their ability to do adequate source water protection planning.

The processes and requirements under the CWA represent best practices with regard to valuable freshwater resources. We strongly urge that the ARA be changed to meet these requirements.

We also wish to highlight inconsistencies in how the public is engaged and consulted during licensing and approval process for aggregate operations. Currently, new and revised licenses must be publicly posted under the *Environmental Bill of Rights* (EBR). The EBR provides the public 30 days to comment on amendments. The ARA would provide 45 days to comment, and the consultation period may not run concurrently with the EBR posting period. This may compromise the ability for the public to clearly understand and engage in the process and should be remedied.

[1] http://cielap.org/pdf/AggregatesStrategyOntario.pdf

Additionally, during the application process the proponents often take years to prepare complex applications, which can include extensive and detailed technical material. However, under the ARA project application review conditions, the general public are given only 45 days in which to access, obtain, read, interpret and respond to the proposal with concerns or counter proposals. Citizens and concerned groups are thus required to spend considerable time and resources to effectively respond. We believe it is time to level the playing field. We ask that consideration be given to changing the current timeframes to allow a minimum of 90 days for meaningful public review and input. For contentious applications, government and industry funding should be made available to potential interveners to allow them to hire experts to assist in the preparation of their review comments. Additionally, all documents directly related to applications, companion technical studies and updates should be made readily accessible to the public (including on-line) in a timely fashion.

Further, municipalities should be given a more decisive role in determining the need for, and location and extent of, proposed aggregate operations.

Under the *Aggregate Resources Act,* control of aggregate mining is largely the purview of the province. However, provincial resources and staffing are shrinking and management of aggregate, water and other resources is becoming increasingly complicated the population and Ontario's communities continue to grow.

We believe there is room for increasing the role of municipalities in the aggregate approval process while maintaining provincial interests and authority. Municipalities have significant experience with land use planning, are a large consumer of aggregates and water. Thus they often have to manage the consequences of multiple competing demands on local lands and waters. So, it would make sense that local government should be given greater control over planning for aggregate extraction within their jurisdictions.

In 2005, Section 2.5.2.1 of the *Provincial Policy Statement* (PPS) was amended to state new aggregate proponents did not need to demonstrate a "need for mineral aggregate resources." This policy leaves the door open to having more aggregate operations than are actually needed to meet provincial demands applied for, or opened. A prime example is the aggregate quarry at Meldrum Bay on Manitoulan Island. This is now the largest quarry in Canada yet the lion's share of product from that quarry is not used locally or provincially. It is exported to the United States. If a local needs test was required, the life of that particular quarry might be greatly extended and fewer other quarries would have to be opened.

The PPS was also amended to state that "as much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible." We encourage the province to investigate viable alternatives to close-to-market aggregate extraction that can be supported by rail and truck transportation. We also caution that unchecked "close to market" aggregate development may end up having a negative impact on Ontario's recently established Greenbelt and the important ecological goods and services provided by these planned relatively intact landscapes.

Pits and quarries remove substantial amounts of surface soils thereby eliminating most of ecological services provided by intact land cover such as water filtration. They also require the

pumping of millions of litres of water daily out of the ground through dewatering, disrupting surface and groundwater flow regimes and water supplies for people who rely on wells.

Looking forward, the aggregate industry anticipates that the GTA will use about 1.5 billion tonnes of aggregate over the next 25 years. Within the Greenbelt, it is projected that 35 square kilometres of agricultural and ecologically sensitive land will be destroyed to meet aggregate needs[2]. Proposed quarries include Nelson Aggregates plan for a 200-acre quarry on the sensitive Mount Nemo plateau in Burlington, part of the Niagara Escarpment. The Norval Shale quarry has also been proposed for development in one of the rare remaining natural areas in Brampton.

**Conclusion**

It is clear that Ontario needs to better manage aggregate operations to ensure that Ontario's best agricultural and ecological lands are protected for the benefit of future generations. We believe that this can be done in a manner that balances the need for aggregates and allows for healthy, sustainable communities and functioning natural ecosystems without jeopardizing opportunities for economic development. It's all about balance.

We respectfully ask that the Committee, at a minimum, recommend that the Government of Ontario proceed with amending the ARA and its regulations and policies to deal with the many important issues outlined above, and that in doing so they also consider:

1. Developing and implementing a long term conservation strategy for managing aggregates;
2. Establishing provincial capacity independent of the industry and The Ontario Aggregate Resources Corporation (TOARC) to forecast future demand and supply needs and maintain data;
3. Maintaining up-to-date aggregate resource inventories;
4. Optimizing the use of aggregates from the thousands of existing licenses before issuing new licenses;
5. Investigating long-term alternatives to close-to-market aggregate extraction which can be supported by rail and truck transportation;
6. Developing a comprehensive 3Rs (Renew, reuse, recycle) strategy – with quantifiable targets – along with the use of alternative and composite materials;
7. Addressing corollary policies such as the Ministry of Transportation's plans for "400-Series Highways in the Greater Golden Horseshoe" and other provincial and municipal highway development planning processes and policies in assessing future aggregate needs;
8. Increasing aggregate royalty fees paid by the industry and do so on an annual basis as both a market signal to drive 3Rs innovations and to sufficiently fund an effective regulatory framework; and,
9. Using Ministerial-zoning orders to ban any new aggregate extraction in the Ontario Greenbelt and areas of ecological significance (e.g. Niagara Escarpment, Oak Ridges Moraine) and on Class I, II and III agricultural lands adjacent or contiguous to these designated areas.

[2] http://www.davidsuzuki.org/publications/downloads/2012/DSF_Watersheds_Ontario_Greenbelt_web.pdf

In closing, we would like to once again thank the Committee for the opportunity as members of the public to provide input on the Aggregate Resources Act and recommendations for change.

The task ahead of you is challenging. So we encourage the Committee and the government to take time to ensure that changes made to the *Act* are in the best interests of all Ontarians, now and in the future, and that they recognize the incredible, on-going value provided by intact and well-functioning ecosystems.

Sincerely

John Werring, M.Sc., R.P.Bio.
Aquatic Habitat Specialist
Marine and Freshwater Conservation Program
David Suzuki Foundation