

CENTRE LETTER.

*rough original*

Mr. R.J. Hand,  
Chairman,  
Board of Directors,  
Centre for Resources Study,  
Queen's University,  
Kingston, Ontario.

Dear Mr. Hand:

On behalf of the Canadian Environmental Law Research Foundation, I wish to apply for a grant-in-aid to prepare an analysis of the proposed Aggregates Act introduced in the Ontario Legislature on June 14th.// The potential environmental impact of aggregate extraction activities has been a concern of the Canadian Environmental Law Research Foundation for some time, and we consider this Bill a very important development deserving of considerable analysis and discussion. <sup>P</sup> The Ontario government has asked for comments on this legislation by September 5th. A grant-in-aid from the Centre, if available, would therefore assist us in making a timely and useful contribution to the discussion of this important legislation. Distribution of a working paper through the Centre would provide an excellent opportunity to canvass the issues thoroughly. Enclosed is a brief proposal outlining the issues we perceive to be important from the point of view of environmental protection.// If this proposal is accepted, the coordinator of this working paper, John Swaigen, the Foundation's ~~legal research director~~ <sup>legal research director</sup>, would be prepared to devote time to its preparation immediately.

*need for the Foundation to prepare such an analysis will be before September 15th for 30 Sept*

In view of the ~~topicality of this matter~~, we would appreciate an early response.

Thank you for your consideration of this request.

Sincerely,  
CANADIAN ENVIRONMENTAL LAW RESEARCH FOUNDATION

*as it w  
its usefulness  
to be maximized*

Michael Perley,  
Executive Director.

ONTARIO'S PROPOSED AGGREGATES ACT: AN ENVIRONMENTAL PROTECTION PERSPECTIVE

A PROPOSAL SUBMITTED TO THE

CENTRE FOR RESOURCE STUDIES

Prepared by:

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Date of Submission 1 August, 1979

Duration: 15 August 1979 - 25 August 1979

Date of activation: 15 August, 1979.

Budget: \$1000.00

Abstract: Viable environmental protection programs are based in part upon legislation that enhances the practice of sound mineral aggregate resource management. Conservation and protection of sensitive natural areas as well as sound land use planning to avoid conflicts with neighbouring uses of land can be fostered by legislation which provides for thorough consideration of all the relevant issues before licensing of pits and quarries, public participation in the licensing process, adequate enforcement mechanisms, provision for rehabilitation of completed sites, <sup>and</sup> adequate provision for rehabilitation of sites abandoned prior to existence of a comprehensive legislative regime. Recent studies of Ontario's legislations, practices, and policies governing the establishment, operation and rehabilitation of pits and quarries, however, have indicated that conflicts between society's need to extract and transport mineral aggregate resources expeditiously and at reasonable cost, the need to preserve natural areas in highly urbanized parts of Ontario, and the rights and amenities of neighbouring communities, have not always been resolved satisfactorily. These studies have led to the introduction by the Ontario Government of proposed new legislation intended to provide more fully for the management of the aggregate resources of the province and the rehabilitation of land from which aggregate has been excavated.

This study will discuss the current legislation and the proposed legislation and discuss to what extent proposed legislation in its present form would succeed in achieving its purposes <sup>and</sup> ~~it~~ would take adequate account of the need to preserve and protect the natural and the structural environment.

B OBJECTIVES

1. Inventory current Ontario legislation that applies to the establishment, operation, and rehabilitation of pits and quarries in the province.
2. Discuss and evaluate proposed new legislation intended to provide more comprehensively for management of Ontario's mineral aggregate resources and regulation of the operation of pits and quarries.
3. Recommend legislative reform to enhance and promote an environmental protection ethic during all phases of the securing and management of sites for extraction of aggregates.

B BENEFITS TO THE CENTRE FOR RESOURCE STUDIES

In return for supporting this investigation the Centre for Resource Studies will receive:

A working paper to be distributed to the constituency and contacts which the Centre has developed. This working paper would contribute and enhance the Centre's function of improving understanding of the complex questions underlying issues of mineral resource policy. This working paper would assist in providing the opportunities for liaison between representatives of federal and provincial governments, the industry, universities and other interested groups, for which the Centre was established.

Through this working paper, the Centre would make an important contribution to raising some important issues and ensuring that they are fully discussed during the course of debate on this important legislation.

B JUSTIFICATION

An analysis of environmental protection aspects of the proposed legislation is fundamental to the development of an effective regime for management of mineral aggregate resources in Ontario. The establishment and operation of pits and quarries has been a frequent and vexing source of conflicts between ratepayers' groups and aggregate producers, between municipal councils and

and the  
provincial  
government

between various levels of government and their constituents. Sand and gravel deposits are frequently found in close proximity to highly urbanized areas where the potential for conflict with residential and commercial amenities is great, where remnant natural areas are in scarce supply, and where the need to extract these resources may conflict with the need to preserve agricultural or recreational land.

Unfortunately, the level of government initially responsible for regulating pits and quarries, the municipal council, ~~is frequently subject to the need~~ <sup>must</sup> ~~to reconcile many competing interests and often has inadequate resources at its disposal in the form of legal and scientific expertise to deal optimally~~ <sup>do so optimally.</sup> ~~with the decisions it must make.~~ Moreover, the ministry of the Ontario government responsible for the development of mineral aggregate policy and regulation of the aggregate industry also has a number of other responsibilities which are difficult to reconcile with this responsibility, including protection and management of wildlife, fisheries, provincial parks, and certain other public lands.

Legislation is therefore necessary which takes into account these various institutional restraints and ~~other~~ sources of conflict, and attempts to reconcile competing interests in a manner most consistent with the public interest.

On the other hand, many municipal officials, conservation groups and local ratepayers' groups are currently aware of the social amenities and environmental values to be protected through progressive legislation and policies but require assistance in forming legislative policies to enhance the habitat of their own municipalities.

In response to the foregoing needs, the proposed working paper would document a number of successful legislative approaches to encourage and orderly approach to resource development consistent with environmental protection and preservation of social amenities. Such an analysis would be of great interest and use to all interest groups who have a stake in revisions to the current legislation governing pits and quarries.

## B EARLIER STUDIES

In 1974, the Canadian Environmental Law Research Foundation published the first ~~extensive~~ <sup>if</sup> citizens' guide published in Canada explaining ~~Ontario~~ environmental laws, a 400 page book entitled Environment on Trial. In 1978 CELRF published a second revised and expanded edition of this work. Both books contained a chapter on legislation regulating pits and quarries in Ontario.

In addition, the Canadian Environmental Law Research Foundation publishes the Canadian Environmental Law Reports. The predecessor to this reporting series, the Canadian Environmental Law <sup>N</sup>ews, on a number of occasions published reports of cases before the courts and the Ontario Municipal Board, case comments, and legislative comments related to issues involving pits and quarries in the province.

## B METHODOLOGY

Major input into the study would be based upon legal research to determine existing legislation and policies that apply to pits and quarries in Ontario. The working paper would include an analysis of issues considered by the Ontario Municipal Board in deciding whether to recommend the licensing of pits and quarries, discussions of the adequacy of enforcement of present legislation and discussion of the adequacy of present rehabilitation procedures.

The study would describe the existing division of powers between the provincial government and municipal governments, and how the proposed Aggregates Act may ~~affect~~ that division of powers. <sup>I</sup> It would discuss the <sup>make</sup> limitations of existing legislation and <sup>1</sup> recommendations for law reform. <sup>IP</sup> In particular, the working paper would discuss the quality and quantity of public participation contemplated by the proposed legislation, the potential role of the public in enforcement ~~of the proposed legislation~~, the adequacy of the rehabilitation fund, ~~the~~ licence fee, ~~and the~~ abandoned pits rehabilitation fund contemplated ~~by the proposed legislation~~, and the ongoing planning and review processes. *The Bell envisions.*

2 DURATION

To expedite the study and thus provide immediate benefits, we plan to conduct our investigation and compose the final report within the time frame of August 15, 1979 to August 15 1979.

3 BUDGET

lawyer's / Researcher's time: ( $\$20 \times 50$  hours) \$ 1000.00  
~~(to be filled in by Mike Perley)~~

4 PERSONNEL

General Counsel,

Principal investigators: John Swaigen, ~~Legal Research Director~~, Canadian Environmental Law Research Foundation.

A copy of Mr. Swaigen's curriculum vitae and a partial list of his publications is attached.

Joseph F. Costilli, researcher, CELRF.

Mr. Costilli has published a number of papers on aspects of environmental and natural resources law and policy, and on topics such as environmental impact assessment, great lakes regulation of Great Lakes water quality and mining.

His study ~~on~~ for the International Joint Commission entitled "An Evaluation of Canadian Legislative Regulatory and Administrative Programs" contains extensive material on extractive operations.