THE AGGREGATE PRODUCERS' ASSOCIATION OF ONTARIO

BRIEF TO THE

MINISTRY of NATURAL RESOURCES

AND TO THE

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

ON

BILL 127 - THE AGGREGATES ACT, 1979

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INTRODUCTION

The Aggregate Producers' Association of Ontario is a non-profit corporation without share capital which was incorporated under the laws of Ontario on December 5th, 1956. The objects of the Association include:

> "... to make representations to the Municipal, Provincial, and Dominion governments as the corporation or its duly authorized officers may recommend in relation to the economic welfare of its members..."

The membership of the Association is composed of 151 Active members who are engaged directly in the production of mineral aggregates in the Province of Ontario and 92 Associate members who are engaged in the provision of equipment, goods and services which supply and support the industry and its operations throughout the Province.

The active membership of the Association is directly responsible for in excess ninety percent of the total tonnage of aggregates produced in Ontario each year.

Ontario society is heavily dependent on the use of aggregate in various applications to satisy an expanding list of material needs - from bathroom fittings to wall and floor tile,

glass, china, crockery, bricks, motar, concrete, cement, shingles, sidewalks, curbs, ashphalt, steel making, lime, paint and plastic fillers. Without aggregates there would literally be no automobiles or anywhere to drive them, no bridges, buildings or houses.

Today in Ontario we are facing a potentially serious problem in relation to our mineral aggregate resources. The existing developed reserves are being depleted as a result of growing demand. Restrictive local zoning by-laws are limiting the development of new reserves. Housing development is being permitted to encroach onto lands containing undeveloped reserves. Uncertainty about the direction of government policy has drastically limited investment in new or expanded production facilities to meet future demand.

As a result, the Association is vitally concerned with legislation dealing with the operation of pits and quarries in the Province of Ontario. It has, on numerous occasions, presented briefs and position papers to the government setting out the industry's concerns. In addition the Association has endeavoured to work with the Ministry of Natural Resouces in relation to all matters respecting the regulation of the industry.

This Brief is presented by the Association in response to a request from the Ministry of Natural Resouces in connection

with proposed legislation known as "The Aggregates Act" Bill 127, which was given first reading in the Ontario Legislature on June 14th, 1979. The Ministry has requested that all interested groups submit their comments on the proposed legislation for consideration by a Standing Committee of the Legislature in the fall of this year.

The Association has a number of very serious concerns about the proposed legislation and its implications for the future of the industry in this province. These concerns are set out below in relation the specific sections of the proposed legislation along with the changes recommended by the Association.

1. THE ROLE OF THE ONTARIO MUNICIPAL BOARD - SECTION 1(b)

Section 1(b) of the proposed Act designates the Ontario Municipal Board as the administrative tribunal responsible for hearing licence applications and appeals from ministerial decisions with respect to pits and quarries in Ontario. The Association has in the past expressed its concern with respect to the present Ontario Municipal Board procedure as it relates to licence applications and appeals. The process has proven to be enormously expensive for the applicant with costs ranging from $50,000 to as much as $500,000, and such costs have effectively precluded medium and small operators from making licence applications. The process has also been inordinately time consuming. It has not been unusual for applicants to experience time lags of from two to five years to complete the approval process. Finally, although the impartiality

and integrity of the Ontario Municipal Board has never been questioned, it has been apparent that the Board simply lacks the technical expertise to deal with the problems of the mineral aggregate industry.

The Working Party Report observed:

> "From submissions and comments made to us it is evident that the present system under the Ontario Municipal Board is seen as time consuming and lacking in input or expertise related specifically to pit and quarry operations. On the other hand, the efforts and impartiality of the Ontario Municipal Board were praised everywhere." [1]

The Association agrees with this observation and while the Association would be satisfied to have the Ontario Municipal Board continue as the administrative tribunal it feels strongly that streamlined procedures are essential in order to ensure that both applications and appeals are dealt with expeditiously. The recommended procedure is dealt with under Section 12 of the new legislation later in this Brief. The Association also feels strongly that, in order to perform its role effectively and expeditiously, new members with technical expertise in relation to the mineral aggregate industry must be added to the Board. This is not something that should be mandated in the new leglislation, however, the Association feels that the passage of the new Act should be accompanied by a commitment to add members with this kind of expertise to the Board.

It is therefore recommended that:

1. A Policy for Mineral Aggregate Resource Management in Ontario, 1977,p.41

SECTION 1(b) - THE MEMBERSHIP OF THE ONTARIO MUNICIPAL BOARD BE EXPANDED SO AS TO INCLUDE NEW MEMBERS WITH TECHNICAL EXPERTISE IN THE MINERAL AGGREGATE INDUSTRY IN ONTARIO.

2. THE ROLE OF GOVERNMENT - SECTIONS 2(a), 3(c), 11(b), 62(a), 62(h)

All of the Sections of the new Act noted above purport to confer very broad powers upon both the Minister of Natural Resources and upon the Lieutenant Governor in Council relating to the "management" of the mineral aggregate resources of the province, the estimation of "demand" and the establishment of policies for "supply" of mineral aggregate and the making of regulations with respect to the "management" and "operation" of individual pits and quarries in the province. The Association is concerned that all of this implies a much greater role for government in relation to the production and marketing of mineral aggregates and in relation to the management and operation of the mineral aggregate industry. The Association feels that while it may be necessary to establish regulations governing the manner in which individual pits and quarries are operated and rehabilitated it is inappropriate for the industry as a whole to be dealt with in the same kind of regulatory framework as a public utility. The mineral aggregate industry is characterized by a high degree of competition amongst a large number of producing companies. In addition the bulk of the province's mineral aggregate production comes from resources that are owned or controlled by the producing companies. The Association believes that the public interest will be best served if the industry is

permitted to continue to function in a competetive free market environment wherein market forces dictate demand, supply and price, and where individual management and entrepreneurial skills are the basis for the efficient production and distribution of the resource.

Moreover, the Association believes that the overall policy objective of "deregulation" will not be achieved through legislation that envisions greater government involvement in the industrial marketplace. The Association would prefer to see a greater emphasis placed on "self-regulation" in the mineral aggregate industry.

The Association acknowledges that government has an appropriate role to play in planning for the preservation and orderly development of the mineral aggregate reserves of the province, however, the Association believes this objective can be accomplished without eliminating the benefits of a competetive free market system. The Association sees no merit in the establishment of production quotas by region or municipality nor does it see any merit in provincial restrictions on overall licenced capacity or tonnage restrictions in individual licences. These are matters that should be governed by market forces subject to the overiding provincial policy objective of preserving the aggregate reserves of the province and providing for their orderly development.

The Association therefore recommends that:

SECTION 2(a) BE AMENDED SO AS TO READ:

"2. The purposes of this Act are:

(a) to provide for the preservation and orderly development of the aggregate and Crown aggregate resources of Ontario;"

SECTION 3(c) BE DELETED.

SECTION 11(b) BE AMENDED SO AS TO READ:

"(b) the preservation and orderly development of the aggregate resources of the province;"

SECTIONS 62(a) AND 62(h) BE AMENDED SO AS TO READ:

"62. The Lieutenant Governor in Council may make regulations

(a) respecting the preservation and orderly development of the aggregate and Crown aggregate resources of Ontario

(h) respecting the control, and operation of pits and quarries, wayside pits and quarries, and Crown aggregate pits and quarries"."

3. THE ROLE OF THE MINISTER OF NATURAL RESOURCES - SECTIONS 3(d), 3(e), 4.

Sections 3(d) and 3(e) deal with the power of the Minister in relation to the collection, analysis and publication of statistics related to the mineral aggregate industry and the conduct of studies with respect to the economics and operations of the industry. Section 4 deals with the powers of inspectors.

The Association believes that it is desirable for the Ministry of Natural Resources to undertake this kind of research work and has supported recommendations along these lines emanating from the report of the Ontario Mineral Aggregates Working Party. However,

in doing so the Association has always noted a very real concern in relation to the confidentiality of information obtained from each individual producer and has maintained that statistics ought to be published in consolidated form only and in a manner that could not breech this confidentiality.

However, the combined effect of Sections 3(d) and 3(e) along with Section 4 dealing with the powers of inspectors provides no safeguards in this regard.

Therefore, while the Association supports the objectives of Section 3(d) and 3(e), it recommends that:

> SECTION 4 - A NEW SECTION BE ADDED CONTAINING PROVISIONS GUARANTEEING THE CONFIDENTIALITY OF DATA PROVIDED BY INDIVIDUAL OPERATORS UNDER SECTION 4. THESE PROVISIONS COULD BE MODELED ON SECTIONS 49 TO 56 OF THE ONTARIO ENERGY BOARD ACT R.S.O. 1970, c.312 (as amended).

4. THE APPLICATION OF THE ACT - SECTIONS 5, 62(o)

The new legislation proposes to continue the practice of designating, by way of regulation, only certain parts of the province in which the legislation and the regulations will apply. The Association believes that the new legislation should apply to the entire province so that the same rules will govern the whole of the industry. At present there is a wide discrepency in the rules that apply to various operators in various parts of Ontario. The public, however, makes no distinction between designated and non-designated areas or between wayside and licenced pits and quarries and the public perception of the entire industry suffers as a result. The Association feels strongly that the only responsible and equitable approach is to deal with the entire

industry in the same fashion throughout the province and the only way this can be done is to provide for uniform standards of operation and rehabilitation for all types of operations in all parts of Ontario. Such standards would also eliminate the anamolous situation that now exists in several areas in which a pit or quarry on one side of a highway is subject to the full force of the Act and the regulations while another pit, on the other side, in direct competition, is exempt. It has been suggested that a lack of staff complement is the primary obstacle to the designation of the entire province under the new Act. The Association believes that unless provision is made to carry out effective and consistent enforcement of the Act throughout the province there is no point in considering new legislation.

The Association therefore recommends that:

SECTION 5 BE AMENDED SO AS TO READ:

"5. This Act and the Regulations apply to all parts of Ontario."

SECTION 62(o) BE DELETED.

5. LICENCES AND LICENCE FEES - PARTS II, III, V AND SECTIONS 7(1), 14(1), 14(3), 14(4), 33, 40, 45(1), 62(e), 62(f), 62(g), 62(i)

The above noted parts and sections of the proposed legislation deal with licencing and the matter of the annual licence fees and royalties payable by licensees and permittees to the Treasurer of Ontario.

With respect to the two classes of licences, proposed in the new legislation the Association can see no justification for the division at the 20,000 tonne level nor can it see any justification for any distinction between licenced pits and quarries and wayside

and Crown aggregate pits and quarries except in the case of a wayside permit issued a person who has a contract for a project with the Ministry of Transportation and Communications. In these cases a somewhat more expeditious licencing procedure such as that set out in the proposed legislation would be justified.

The only differences between the two classes of licence proposed would appear to be in relation to the site plan and licence application requirements. Class B applicants would be relieved from certain of the site plan requirements under Section 8 and the requirement to provide certain reports under Section 9.

In the Association's view the relief provided for Class B applicants under the proposed legislation is not significant, and the benefit of such relief to small operators is heavily outweighed by the desirability of having a uniform standard for the licencing of all pits and quarries in the province.

In addition, the Association feels strongly that there should be essentially no distinction between licenced pits and quarries and wayside and Crown aggregate pits and quarries for the purpose of licencing. The public interest will best be served by the establishment of uniform site plan and rehabilitation requirements for all aggregate producers throughout the province. In particular the Association can see no reason for wayside pits and quarries, which are both more numerous and more visible, not being subject to the same requirements for site plans and for rehabilitation as ordinary licenced operations. The Working Party report observed:

> "The Working Party recognizes that, if wayside pits do not conform to the standards intended, then the credibility of the Act is at stake. As a matter of principle we do not see how any provincial or municipal body can be less responsible in its operations than the standard set for industry. A pit is a pit to a citizen, and if wayside pits are not maintained to standard then the total credibility of the Act and the government is at risk." 2.

The Association agrees with this observation and therefore recommends that:

SECTION 7(1) BE AMENDED SO AS TO READ:

> "7(1) Subject to section 24 and section 34(1) of this Act, any person may apply to the Minister in the prescribed form for a licence or a permit to excavate aggregate from a pit or quarry, a wayside pit or quarry or a Crown aggregate pit or quarry."

PARTS II, III AND V - ALL REFERENCES TO CLASS A AND CLASS B LICENCES BE DELETED AND THE REQUIREMENTS SET OUT IN THE PROPOSED LEGISLATION FOR CLASS A LICENCES BE ADOPTED AS THE REQUIREMENTS FOR ALL LICENCE AND PERMIT APPLICATIONS INCLUDING APPLICATIONS FOR WAYSIDE AND CROWN AGGREGATE PITS AND QUARRIES EXCEPT FOR WAYSIDE PERMITS ISSUED TO PERSONS IN CONNECTION WITH PROJECTS UNDERTAKEN PURSUANT TO CONTRACTS WITH THE MINISTRY OF TRANSPORTATION AND COMMUNICATIONS.

The proposed legislation provides for the establishment of an annual licence fee by way of regulation. The current regulations under the Pits and Quarries Control Act, 1971 (Ontario Regulation 545/71, as amended) provide for nominal annual licence fees of $25 for a person other than a corporation and $100 for a corporation. The licence fees proposed in the report of the Ontario Mineral Aggregates Working Party ranged from $100 for pits and quarries with a tonnage of up to 20,000 tonnes per year or the equivalent of .5 cents per tonne, to $50,000 for pits and quarries with tonnage over 2,000,000 tonnes per year or the equivalent of 2.5 cents per tonne. However, in a press release dated June 14, 1979, the Minister indicated that the licence fees under the new Act would be set at levels even higher than those proposed in the Working Party Report. The licence fees proposed by the Minister would be at the level of 6 cents per tonne of aggregate excavated in the previous year. Such fees would

establish a range of $1,200 for pits and quarries at 20,000 tonnes per year to $120,000 for pits and quarries at 2,000,000 tonnes per year.

The Association is very strongly opposed to licence fees of this magnitude. Such fees would be completely incompatible with licence fees applied to any other industry in the province and could only be interpreted as punitive in nature.

The principal reason put forward in support of licence fees of this magnitude has always been the claim of local municipalities that they should be compensated for the "special costs" that they suffer, primarily in relation to municipal roads, as a result of aggregate production in the municipality. The Minister's press release of June 14, 1979 indicated that four and one half cents out of the six cent licence fee would be returned to the local, regional and county governments to compensate them for these alleged extra costs. However, despite the persistant and oft-repeated claims of the municipalities, there is no evidence to substantiate the view that mineral aggregate operations impose an extra financial burden upon local government. Indeed, the economic analysis carried out by the Association indicates quite the reverse. In an analysis of two of the principal producing municipalities in Ontario - Caledon and Uxbridge - carried out in 1978 by G.M. Stamm Economic Research Associates (see Appendix A) it was found that "...the mineral aggregate industry does not impose 'extra costs' on the municipal level of government. In fact, indications are that the industry provides a very substantial surplus to the municipalities." 3.

3. The Mineral Aggregate Industry in Ontario - G.M. Stamm, Economic Research Associates. p.53.

It was found that mineral aggregate operations assisted in creating a more favourable commercial-residential assessment balance and that in contrast to other users of municipally provided services, the industry imposed no burden with respect to environmental protection costs, health costs, social and family services costs, recreation and culture costs, or the school system. Many services provided to the normal business enterprise, such as a shopping centre, are not required by the aggregate industry.

Notwithstanding the claim that the industry imposes extra local road costs it was found that in fact very limited use is made of local roads with most of the mineral aggregate production in the municipalities studied egressing directly onto Provincial highways. However, even allowing for transportation costs over and above the level for other businesses, it was found that the industry generated a very considerable surplus to local government, regional government, and the school boards (See Appendix A). The Association therefore sees no justification whatsoever for the proposed four and one half cent rebate to local and regional or county municipalities.

The Minister's June 14th press release also indicated that one cent of the proposed 6 cent licence fee would go to the Provincial government. The current level of licence fees established in the regulations under the Pits and Quarries Control Act yields the province approximately $100,000 on an annual basis. The proposed one cent rebate would yield approximately $1,000,000 on an annual basis (see Appendix B, p.10). There is no evidence that the cost of the licencing procedure even approaches this latter amount and it can only be assumed that the rebate is designed to cover not

only the administrative costs associated with the licencing procedure but all costs associated with the general administration enforcement of the Act as well. The Association believes that any costs associated with the general administration and enforcement of the Act should be a charge against the consolidated revenues of the province and recovered through provincial taxation in the same manner as the costs of administering and enforcing any other provincial legislation. The Association can see no justification for a licence fee designed to recover the entire cost of the administration and enforcement of the licencing legislation as appears to be the intention in the new Act.

The Minister's June 14th press release indicated that the remaining one half cent of the six cent licence fee would go to a fund to provide for the rehabilitation of abandoned pits and quarries. The Association can see no justification for requiring the present and future operators of pits and quarries in Ontario and their customers, to pay for the cost of rehabilitating abandoned pits and quarries as proposed by the one half cent rebate. The Association feels strongly that the rehabilitation of such abandoned pits and quarries ought to be considered the responsibility of the owners of the land. The Minister should have the power to declare the pit or quarry to be "abandoned" under Section 33 of the legislation and should then have the power to require the owner to rehabilitate or alternatively, the power to enter upon the land and perform such rehabilitation work as may be required with the cost of such work recoverable by the Crown from the owner.

The overall effect of the imposition of a six cent per tonne licence fee both on the public and on the aggregate industry has been analysed by G.M. Stamm Economic Research Associates in a

Report entitled Technical Brief - Economic Effects of Special Licence Fees and Rehabilitation Security Deposits - October 1979 (see Appendix B). The report concludes that a six cent licence fee would represent a significant added cost in the production of mineral aggregate. At 1978 production rates it would amount to approximately $6.6 million. And because mineral aggregate products are used to the greatest extent in projects which are financed through the public sector the prime impact of a six cent licence fee would be to force increases in provincial taxation and in municipal taxation in consuming municipalities. The cost of all private sector construction utilizing mineral aggregates would also be increased. In addition, the proposed rebate scheme involving payments to producing municipalities would result in a transfer of funds from the property taxpayers in consuming municipalities and from the provincial taxpayer generally to the coffers of the producing municipalities. Moreover, there is absolutely no guarantee as to how these funds would be utilized.

The Association feels strongly that the proposed licence fee/rebate scheme is not only an unorthodox method of subsidizing producing municipalities at the expense of the consuming municipalities and the provincial taxpayer but it also totally unwarranted in view of the economic analysis indicating that "...the mineral aggregate industry does not impose 'extra costs' on the municipal level of government. In fact, indications are that the industry provides a very substantial surplus to the municipalities." 4.

Finally, the Association strongly believes that any licence fee should be incorporated directly into the legislation and not established by regulation. The Association views this as the only safeguard for the industry and the public against arbitrary changes in the level of or the basis for such fees

4. Ibid.

which changes would be made by Order-in-Council without the opportunity for public discussion and debate in the legislature.

The Association therefore recommends that:

SECTION 14 (1) BE AMENDED SO AS TO READ:

"14(1) Every licensee and every wayside permittee shall pay to the Treasurer on or before the 15th day of March in each year an annual fee for the previous year in the amount of $25.00 for a person other than a corporation and $100.00 for a corporation and if it is not so paid, the Minister may revoke the licence or permit."

SECTION 14(3) AND 14(4) BE DELETED.

SECTION 33 BE AMENDED SO AS TO READ:

"33(1) Where there is an unlicenced pit or quarry, the Minister may,

(a) after consultation with the owner of the land on which the pit or quarry is located; and

(b) after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located,

declare the pit or quarry to be abandoned for the purposes of subsection 2.

(2) Where the owner of land on which an abandoned pit or quarry is located does not submit proof to the satisfaction of the Minister that he has rehabilitated the abandoned pit or quarry the Minister may enter upon the land and perform such rehabilitation work as he considers necessary.

(3) The cost of rehabilitation work performed by the Minister under subsection 2 is a debt due to the Crown by the owner of the land and is recoverable by the Crown in any court of competent jurisdiction."

SECTION 40 BE AMENDED SO AS TO READ:

"40 Every Crown aggregate pit or quarry permittee shall pay to the Treasurer a permit fee in the amount of $25.00 for each year or part thereof in which the permit is in force and effect."

SECTION 45(1) BE AMENDED SO AS TO READ:

"45(1) The Minister shall determine the royalty per tonne that each Crown aggregate permittee must pay under subsection 2, but in no case shall the royalty be less than 20 cents per tonne and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the Crown aggregate and its intended use."

SECTION 62(f) AND 62(g) BE DELETED.

SECTION 62 BE AMENDED BY DELETING SECTION 62(e) AND AMENDING SECTION 62(i) SO AS TO READ:

"62(i) Prescribing the royalty for Crown aggregate and providing for the payment thereof."

The Association also notes that the wording of proposed legislation in relation to licence fees raises a very practical problem in that it calls for the payment of the annual licence fee based on the amount of material "excavated" during the course of a year. As a practical matter it would be extremely difficult to accurately measure or monitor the amount of material "excavated" during the course of a year. The only practical system would be one based on the amount of aggregate "removed" from the pit or quarry or "sold" by the operator during the course of a year. This data is routinely recorded by the operator and is readily subject to verification by the government.

6. REHABILITATION SECURITY DEPOSITS - SECTIONS 48, 49, 50, 51, 52, 62(1)

All of the above noted Sections deal with the rehabilitation security deposits that under the proposed legislation are payable annually to the Treasurer on a per hectare basis. The regulations under the Pits and Quarries Control Act, 1971 (Ontario Regulation 545/71) provide for rehabilitation security deposits in the amount of 2 cents per ton of material removed in the previous calendar year with an upper limit of $100,000 or an amount equal to $500 per acre of the property used for pit or quarry operations. The Report of the Ontario Mineral Aggregate Working Party proposed that the amount of the deposit be increased to 8 cents per tonne of material removed with no effective limitation. The Minister, in the June 14th press release also proposed a deposit of 8 cents per tonne.

The Association has very strong concerns about rehabilitation security deposits at this level. The rehabilitation security deposit was originally conceived as a reserve to guard against the default of the operator with respect to his obligation to rehabilitate. It now appears to be regarded not as a form of security but rather as a fund to provide for the total cost of all rehabilitation work to be carried out on the operator's property. The 8 cent per tonne deposit appears to have been propsed in an effort to provide a significant incentive towards rehabilitation. However, there is no evidence that such a significant incentive is required. Although the Working Party published no research on the subject the Report surmised that:

> "... probably less than 10 per cent of all areas excavated had been rehabilitated since 1971." 5.

5. A Policy for Mineral Aggregate Resource Management in Ontario, 1977, p.65.

On the other hand, the Coates/Scott study, referred to by the Minister in the June 14th press release, indicates that 44 per cent of the area covered by the 258 pits and quarries that were studied had been rehabilitated. It is important to note that the balance of the area within the study classified as "no rehabilitation" included licenced acreage that had not been excavated and therefore did not yet require rehabilitation, as well as acreage that was being rehabilitated by natural revegetation. The Coates/Scott study should not be taken to indicate that 56 per cent of the "area requiring rehabilitation" had not been rehabilitated by the operators.

In fact, the actual record of industry performance since the introduction of the Pits and Quarries Control Act in 1971 indicates that there have been no defaults on the part of any licenced operators in Ontario since the Act came into force and the Minister has never been required to exercise his power under Section 11 of the present Act to perform rehabilitation where a licensee has failed to do so.

Nevertheless, the Association agrees that a reserve is required, both to provide the government with some security against default on the part of the operator and to provide some incentive to progressive rehabilitation. The Association believes, however, that the Minister's power to revoke and to suspend an operator's licence under Sections 21, 23, 32 and 41 of the proposed legislation is the most effective instrument to insure that rehabilitation will be carried out in accordance with the requirements of the Act and the site plan.

In addition, in dealing with permits for wayside pits and quarries for projects undertaken pursuant to contracts with the Ministry of Transportation and Communications, it is not necessary for the government to require rehabilitation security deposit since the Ministry can control rehabilitation adequately by using the hold back provisions in the contracts. The Association therefore feels that no rehabilitation security deposits should be required in the case of a wayside permit for a project undertaken pursuant to a contract with the Ministry of Transportation and Communications.

Moreover, the Association is of the view that in appropriate circumstances, where it can be demonstrated that the actual cost of rehabilitation is less than that provided for in the legislation, or where "progressive rehabilitation" is not feasible, the Minister should have the power to exempt individual operators from the payment of all or part of the deposit.

The appropriate level for a rehabilitation security deposit that will provide the government with an edequate amount of security against default on the part of the operator and also provide some incentive towards progressive rehabilitation is very difficult to determine.

In its report dated December 1976 the Working Party indicated:

> "We have estimated the cost of rehabilitation today to range from 0.1 cents per tonne to 5 cents per tonne, or $300 to $1,600 per acre." 6.

The Association, in response to the Working Party Report, took the position that the level of the rehabilitation security deposit should not exceed the maximum anticipated cost of rehabilitation as set out in the report.

6. Ibid p.65.

More recently, in order to obtain an up to date, independent assessment of rehabilitation costs in typical pit and quarry operations the Association asked two consulting firms - Proctor and Redfern Limited and Marshall Macklin Monoghan Limited - to provide cost estimates on four typical pit and quarry cases. The results are provided as Appendix "C" to this brief. The range of costs for the four cases studied was:

Proctor and Redfern Limited:	0.1¢ - 8.9¢/ton
Marshall Macklin Monaghan Limited:	.46¢ - 6.64¢/ton

It is clear to the Association both from the cost estimates provided by the consultants and from the experience of its members that the actual costs of rehabilitation vary widely depending upon the particular circumstances involved. In addition, on the estimates of both consultants, only one case produced cost estimates in excess of 5 cents per ton. The other three cases all produced cost estimates of 4.8 cents per ton or lower.

In view of the wide range of possible rehabilitation costs the Association has concluded that it would be difficult, if not impossible to fix a level for such deposits that would be equitable in all circumstances. However, based on the experience of its members, the Association is of the view that a level of 5 cents per tonne would provide sufficient security against default and also provide an incentive towards progressive rehabilitation. At 5 cents per tonne, the deposit would be set at a level higher than the mid-point of the ranges estimated by both consultants in connection with the four typical case studies undertaken and would exceed the maximum cost per tonne estimated in three of the four cases.

The Association therefore would agree with a security deposit, established in the legislation at a rate of 5 cents per tonne.

In addition, the Association is of the view that plant sites located at the pit or quarry and not requiring rehabilitation until the completion of all excavation on the site, should be exempted from the calculation of the maximum level of rehabilitation security on deposit. The plant site should be defined so as to include entrances, internal roadways, scaling areas, stock piles and all buildings associated with the plant as set out in the approved site plan.

Finally the Association feels strongly that the rate of interest paid on the monies on deposit should approximate that which would be earned on guaranteed investments available in the market. The regulations under the Pits and Quarries Control Act 1971 (Ontario Regulation 545/71, as amended) provide for the payment of simple interest at 6% per annum. The Association feels strongly that the funds held on account of rehabilitation security would currently earn almost double this rate if prudently invested. The Association would prefer to see such monies held and invested by a private financial institution rather than by government.

The Association therefore recommends that:

SECTION 48 BE AMENDED SO AS TO READ:

"48(1) Every licensee shall pay to the Treasurer on or before the 15th day of March in each year an amount equal to 5 cents per tonne of material removed from the site in the previous calendar year as security for the rehabilitation of the site.

(2) The payments specified in subsection 1 cease when the total to the credit of the licensee in all of his accounts reaches $100,000.00 or $3,000.00 for each hectare of each site, excluding any plant site as set out in the approved site plan, that in the opinion of the Minister requires rehabilitation whichever is the greater."

SECTION 49 BE AMENDED SO AS TO READ:

"49(1) Every person who applies for a permit for a wayside pit or quarry shall, before the permit is issued, pay to the Treasurer a sum equal to 5 cents per tonne authorized by the permit as security for the rehabilitation of the site.

(2) The payment specified in subsection 1 shall not be required in the case of a permit for a wayside pit or quarry for a project undertaken pursuant to a contract with the Ministry of Transportation and Communications."

SECTION 50 BE AMENDED SO AS TO READ:

"50(1) Every Crown aggregate permittee shall pay to the Treasurer on or before the tenth day of the month immediately following the month in which the Crown aggregate was removed from the site a sum equal to 5 cents per tonne of Crown aggregate removed from the site as security for the rehabilitation of the site.

(2) The payments specified in subsection 1 cease when the total to the credit of the Crown aggregate permittee in all of his accounts reaches $100,000.00 or $3,000.00 for each hectare of each site, excluding any plant site as set out in the approved site plan, that in the opinion of the Minister requires rehabilitation whichever is the greater."

SECTION 51 BE AMENDED SO AS TO READ:

"51(1) Sums paid by a licensee, a wayside pit or quarry permittee or a Crown aggregate permittee under Section 48, 49 or 50 shall be held in the manner prescribed in an account in his name and shall be paid out in accordance with this Part.

(2) Interest earned on the sums held under subsection 1 shall be deemed to form part of the rehabilitation security."

SECTION 52 BE AMENDED SO AS TO READ:

"52(1) Where a licensee or permittee submits proof to the satisfaction of the Minister that he has performed progressive rehabilitation on his site in accordance with this Act, the regulations, the conditions of his licence or permit and the requirements of his site plan, he is entitled to a refund not more than twice a year out of his rehabilitation security account in accordance with the regulations.

(2) The Minister shall determine the amount of the refund mentioned in subsection 1, but in no case shall the amount of the refund reduce the amount remaining in the rehabilitation security account of the licensee or permittee to less than $600 for each hectare requiring rehabilitation, excluding any plant site as set out in the approved site plan."

A NEW SECTION SHOULD BE ADDED AS FOLLOWS:

"New If owing to special circumstances, it is deemed inequitable that the whole amount of the sums required to be paid as security for rehabilitation under sections 48, 49 and 50 of this Act be paid, the Minister may with the approval of the Lieutenant Governor in Council, exempt a licensee or permittee from the payment of the whole or any part of such sums."

SECTION 62 BE AMENDED BY DELETING SUBSECTION (1) AND BY ADDING A NEW SUBSECTION AS FOLLOWS:

"New Providing for the investment of the sums paid under sections 48, 49 and 50 and providing for refunds from rehabilitation security accounts."

7. COMPLIANCE WITH ZONING BY-LAWS - SECTION 10

Section 10 of the proposed legislation providing for applications to the Supreme Court for declatory judgements on compliance with local zoning by-laws would appear to invite both litigation and delay. The Association is of the view that the opinion of the Ministry of Housing on compliance with local

zoning by-laws should provide a sufficient basis for the Minister to make a decision on a licence application. The procedures recommended by the Association with respect to licence applications will provide for notice to municipalities prior to licencing and in the event that there is any doubt about compliance with local zoning by-laws the municipality may initiate the appropriate legal action.

The Association therefore recommends that:

SECTION 10 BE DELETED.

8. THE LICENCING AND APPEAL PROCEDURES - SECTIONS 12, 21, 22(2), 44

The sections noted above provide the procedural mechanism for hearings on licencing applications and for appeals from ministerial decisions. The procedures contained in these Sections are similar to those contained in Section 5 of the Pits and Quarries Control Act which have been the cause of so much delay, frustration and expense over the last several years. The Association feels strongly that a more streamlined procedure is required in order to ensure that licence applications and appeals are dealt with both fairly and expeditiously. The procedure that has been suggested by the Association on licence applications is as follows:

1. Applications would be submitted to the Minister.
2. The Minister would review the application for technical compliance with the new Aggregates Act within one month.
3. The Minister would refer the application to other

concerned ministries for comment within two months and to the municipality or municipalities involved, calling for their comments within two months.

4. The municipality would review the application in consultation with the applicant, and would arrange for a public meeting at which local comments would be received in support of, or opposition to, the application. The municipality would then make its comments to the Minister.

5. The Minister would review the comments from other concerned ministries and the comments of the municipality, and within one month, would give Public Notice of his intent to issue or not to issue a licence to the applicant.

6. If no objections were received by the Minister within twenty-one days of the Public Notice, the Minister would implement his decision within a further ten days.

7. Where an objection is received within twenty-one days of the Public Notice, the Ontario Municipal Board would be required to hold a hearing within two months.

8. The Ontario Municipal Board would make a decision within one month of the completion of the hearing as to whether a licence shall be issued, with or without added conditions, or shall be refused.

9. Where the Ontario Municipal Board decides that a licence shall be issued, with or without added conditions, the Minister shall issue such licence within ten days Boards decision.

The Association therefore recommends that:

SECTION 12 BE AMENDED SO AS TO READ:

"12(1) Where the Minister is satisfied that an application for a licence or permit and the documents accompanying it comply with this Act and the regulations, he shall within one month of receipt of the application, refer the application to any Ministry of the public service of Ontario that may be concerned therewith and, the Minister shall refer the application to the clerk of the regional municipality or county, as the case may be, and to the clerk of the local municipality in which the site is located for their information and comment."

(2) All comments under subsection 1 shall be made in writing and shall be sent to the Minister and to the applicant within two months from receipt of the application.

(3) The council of the local municipality shall cause the applicant to hold a public meeting for the purpose of explaining the application and receiving the comments of the inhabitants of the municipality in connection with the application.

(4) The Minister shall review all of the comments received and shall then give notice of his intention to issue or to refuse to issue a licence or permit.

(5) The notice under subsection 4 shall be given in writing and shall be served upon the applicant no later than four months after receipt of the application under subsection 1.

(6) When the Minister gives notice of his intention to issue a licence or permit under subsection 4, the applicant must cause notice of the application and of the Minister's decision to be published in the prescribed form in two successive issues of at least one daily or weekly newspaper having general circulation in the municipality in which the site is located.

(7) As soon as the publication of the notice has been completed, the applicant shall notify the Minister thereof.

(8) Any person, including any municipality, may serve upon the Minister and upon the applicant within twenty one days of the last publication date under subsection 6 a notice that he or it objects to the issue of the licence or permit applied for and the reasons therefor.

(9) Any person who has served a notice under subsection 8 may, in addition, serve upon the Minister and upon the applicant within the time period set out in subsection 8, a notice that he requires a hearing of the matter before the Board.

(10) Where no notice has been served upon the Minister under subsection 8, the Minister shall issue or give notice of his refusal to issue the licence or permit within ten days.

(11) Where a notice is served upon the Minister under subsection 8 the Minister shall forthwith refer the matter to the Board for a hearing.

(12) The Minister may, on his own motion, refer an application and the objections, if any, to the Board for a hearing.

(13) The Board shall fix a date for the hearing which date shall be no later than two months from the receipt of the reference from the Minister.

(14) Where, under the Planning Act, an application for an amendment to any relevant restricted area by-law is before the Board for a hearing and an application under this Act is referred to the Board, the Board shall consider both matters at one hearing.""

SECTION 21 BE AMENDED BY ADDING THE WORDS "PERMIT AND "PERMITTEE" SO THAT THE SECTION APPLIES TO BOTH LICENCES AND PERMITS AND BY ADDING THE FOLLOWING SUBSECTION:

"(7) The Board shall fix a date for the commencement of the hearing which date shall be no later than two months from the receipt of the reference from the Minister."

SECTION 22 BE AMENDED SO AS TO READ:

"(1) Where a matter is referred to the Board under section 12 or 21, the Board shall hold a hearing and the applicant, licensee or permittee, the Minister and such other persons as the Board specifies shall be parties to the proceeding.

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the Ontario Municipal Board Act.

(3) The Board shall issue a decision within one month after the conclusion of a hearing under this section."

9. SUSPENSION, REVOCATION, AND AMENDMENT - PART III AND SECTIONS 1(c), 13(2), 16(1), 21(2), 23, 34(3), 35, 36(2), AND 44

The power of the Minister to suspend and to revoke a licence is the most effective instrument to insure compliance with the provisions of both the Act and the Regulations including the obligation to rehabilitate in accordance with the site plan. The Association believes that the Minister must have this power and that he should not be reluctant to exercise it in order to insure compliance. However, the Association believes that a licensee or permittee ought to be given a brief grace period to take appropriate remedial action in order to avoid the consequences of supension or revocation both of which involve a complete shut-down and the cessation of all pit and quarry operations.

The Association therefore recommends that:

SECTION 21(2) BE AMENDED SO AS TO READ:

"21(2) Subject to compliance with the provisions of section 23, the Minister may revoke a licence or permit for any contravention of this Act, the regulations, the conditions of the licence or permit or the requirements of the site plan."

SECTION 23 BE AMENDED SO AS TO READ:

"23(1) The Minister may suspend a licence or permit for any period of time, not exceeding three months for any contravention of this Act, the regulations or the conditions of the site plan, effective thirty days from the date the notice mentioned in subsection 2 is served upon the licensee or permittee.

(2) Where the Minister has suspended a licence or permit he shall serve notice thereof, including the reasons therefor, upon the licensee or permittee and upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located.

(3) The notice mentioned in subsection 2 shall, in addition to the particulars mentioned therein, notify the licensee or permittee of the date the suspension will become effective, the period of the suspension, the action he must take or desist from taking before the suspension will be removed, that the suspension will be removed as soon as he has complied with the notice to the satisfaction of the Minister, and that if he does not comply with the notice within the period of supension, the Minister may revoke the licence or permit.

(4) Where the licensee or permittee complies with the notice mentioned in subsection 2 to the satisfaction of the Minister, within thirty days from the date the notice is served on the licensee or permittee, the suspension will not become effective.

(5) Where a licensee or permittee whose licence or permit has been suspended has not taken the required remedial action within the period of suspension, the Minister may exercise his power under subsection 2 of section 21 and revoke the licence, or permit in which case subsections 3 to 7 of that section apply."

The Association also believes that the procedure for appeals from ministerial decisions should be further streamlined. In addition the Association feels strongly that the exercise of the Minister's power to amend a site plan or to add, rescind or vary a condition in a licence or permit should be specifically limited to circumstances involving the discovery of a material fact relating to the operation of the pit or quarry that was not known at the time the licence or permit was issued.

The Association therefore recommends that:

SECTION 13(2) BE AMENDED SO AS TO READ:

> "13(2) Where, in the opinion of the Minister, new information in relation to the operation of a pit or quarry, a wayside pit or quarry or a Crown aggregate pit or quarry, not available at the time of the issuance of a licence or permit, requires the addition of condition to a licence or the revision or variation of a condition of a licence, the Minister may make such addition, revision or variation."

SECTION 16(1) BE AMENDED SO AS TO READ:

> "16(1) Where in the opinion of the Minister, new information in relation to the operation of a pit or quarry, a wayside pit or quarry or a Crown aggregate pit or quarry, not available at the time of the issuance of a licence or permit, requires an amendment to the site plan, the Minister may make such amendment."

In line with its views on the proposed classes of licences and permits, the Association feels strongly that the procedure on licence and permit applications, and on appeals from ministerial decisions should be basically the same for all pits and quarries including wayside pits and quarries and Crown aggregate pits and quarries.

The Association therefore recommends that:

PART III BE AMENDED SO THAT ITS PROVISIONS APPLY ONLY TO PERMITS FOR WAYSIDE PITS AND QUARRIES ISSUED TO PERSONS IN CONNECTION WITH PROJECTS UNDERTAKEN PURSUANT TO CONTRACTS WITH THE MINISTRY OF TRANSPORTATION AND COMMUNICATIONS; SECTIONS 34(3), 35,36(2) AND 44 BE DELETED AND REFERENCE BE HAD TO THE GENERAL LICENCING AND APPEAL PROVISIONS OF THE LEGISLATION.

SECTION 1(c) BE DELETED.

10. WAYSIDE PITS AND QUARRIES - SECTIONS 1(s), 1(z) AND 24

The new legislation proposes to substantially broaden the scope of persons eligible to obtain wayside permits. Under the Pits and Quarries Control Act wayside permits were restricted to "...a public road authority solely for the purpose of a particular project or contract of road construction...". The proposed legislation broadens this to include "...the Crown, a Crown agency within the meaning of the Crown Agency Act, a municipality or local board as defined in the Municipal Affairs

Act, an authority within the meaning of the Conservation Authorities Act, and Ontario Hydro...".

The Working Party Report expressed considerable concern on the subject of wayside pits. The Report indicated:

> "...more than half of the delegations and briefs we received spoke to the problem of wayside pits and quarries." 7.
>
> "We have observed that there is a particular concern over wayside pits and quarries in high extraction areas surrounding the urban centres where the local residents do not believe that there is a need to open up additional pits when alternate commercial pits are available. Elsewhere, some local municipalities are obtaining wayside permits on a continuing basis from the same property instead of a licence, and these are not being maintained or rehabilitated to the same standard as commercial operations." 8.
>
> "The situation of wayside permits is serious enough that it has caused us to consider whether or not wayside permits should be discarded altogether." 9.

The Working Party Report recommended additional limitations on wayside pit and quarry permits and did not recommend broadening in the scope of those eligible to obtain them. The Association shares this view and therefore recommends that:

SECTION 1(s) BE DELETED.

SECTION 1(z) BE AMENDED SO AS TO READ:

> "(z) "wayside pit or quarry" means land from which consolidated or unconsolidated aggregate, as the case may be, has been, is being, or may be excavated for use by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right of way."

7. Ibid p.80.
8. Ibid p.80.
9. Ibid p.81.

SECTION 24 BE AMENDED SO AS TO READ:

> "24. Any public road authority that has a project that requires aggregate or any person who has a contract with a public road authority for such a project may apply to the Minister in the prescribed form for a wayside pit or quarry permit."

It has been noted above that the Association recommends that wayside permits for projects undertaken pursuant to contracts with The Ministry of Transportation and Communications be exempt from payment of the rehabilitation security deposit and that they be licenced according to the provisions of Part III of the proposed legislation.

11. ESTABLISHED PIT AND QUARRIES - SECTION 1(f) AND 65

The application of the new legislation to the entire province, as recommended by the Association herein, will require amendments to Sections 1(f) and 65 of the proposed legislation in order to reflect this change.

The Association therefore recommends that:

SECTION 1(f) BE AMENDED SO AS TO READ:

> "(f) "established pit or quarry" means a pit or quarry or a wayside pit or quarry from which, in the opinion of the Minister, a substantial amount of aggregate has been excavated within the two year period immediately before the coming into force of this Act."

SECTION 65 BE AMENDED SO AS TO READ:

"65(1) Where the requirements of section 7, except clause c of subsection 2, are compiled with during the six-month period next following the coming into force of this Act, a licence for an established pit or quarry must be issued or refused during the twelve-month period next following the comming into force of this Act.

(2) Notwithstanding subsection 1 of section 55, a person who applies for a licence during the six-month period next following the coming into force of this Act may operate his established pit or quarry without a licence until the licence is either issued or refused or until the expiry of the twelve-month period next following the coming into force of this Act, whichever occurs first.

(3) Subsections 2 to 13 of section 12 do not apply where an application for a licence for an established pit or quarry is made during the two-year period next following the coming into force of this Act.

(4) Notwithstanding subsection 3 of section 13, where an application for a licence for an established pit or quarry is made during the two-year period next following the coming into force of this Act, the Minister may issue a licence for an established pit or quarry even if its location contravenes any relevant restricted area by-law.

(5) For the purpose of this Act and the regulations, where a person has been issued a licence for an established pit or quarry, he shall be deemed to be a licencee from the date of the coming into force of this Act.

12. FURTHER LEGISLATIVE CHANGES REQUIRED

The Working Party Report noted that a number of additional changes in the legislation affecting the operation of pits and quarries would be required in order to eliminate conflicts that would otherwise occur as a result of overlapping jurisdiction. The Working Party observed:

> "In order to have a workable mineral aggregate policy which in turn would ensure maximum benefit by way of aggregate supply , to the people of Ontario at acceptable social, environmental and dollar costs, it is the opinion of the Working Party that existing conflicting and overlapping legislation must be amended. In addition the jurisdiction and responsibilities of provincial and municipal governments must be clarified". 10.

The Association agrees with this position. The proposed legislation, along with the amendments recommended by the Association would call for a number of amendments to other legislation in order to eliminate overlapping and to clarify the responsibilities of the two levels of government. These amendments are summarized below. All such changes in related legislation must be processed concurrently with the new Aggregates Act.

1. THE PLANNING ACT

The Association feels strongly that the position of the pit or quarry operator vis a vis the local municipality requires clarification with respect to municipal levies, imposts and other charges in relation to subdivision and development agreements. After fulfilling the site plan requirements of the Ministry

10. Ibid p.51.

and paying the rehabilitation security deposit the Association feels that the industry should not also be obliged to pay additional municipal charges pursuant to development or subdivision agreements.

The Association therefore recommends that:

SECTIONS 33 AND 35(a) OF THE PLANNING ACT BE AMENDED BY ADDING THE FOLLOWING SUBSECTION:

"New This section shall not apply to any land or any development on any land that is a pit or quarry, wayside pit or quarry, or Crown aggregate pit or quarry as defined in the Aggregates Act."

In order to clarify the role of the local municipality in relation to zoning it is recommended that:

THE PLANNING ACT BE AMENDED TO DEFINE THE MAKING OF A PIT OR QUARRY AS A USE OF LAND WITHIN THE MEANING OF SECTION 35(1) OF THE PLANNING ACT.

SECTION 36(1)6 OF THE PLANNING ACT BE REPEALLED.

THE PLANNING ACT BE AMENDED TO PROVIDE THAT IN REGIONS AND COUNTIES WITH APPROVED OFFICIAL PLANS INCORPORATING DESIGNATED MINERAL AGGREGATE EXTRACTION AREAS WITH SUPPORTING POLICIES, LOCAL ZONING BY-LAWS CEASE TO APPLY TO THE CONTROL AND LOCATION OF PITS AND QUARRIES.

SECTION 35(2) OF THE PLANNING ACT BE AMENDED TO REMOVE MUNICIPAL POWER TO PROHIBIT PITS AND QUARRIES IN REGIONS AND COUNTIES WITH APPROVED OFFICIAL PLANS INCORPORATING DESIGNATED MINERAL AGGREGATE EXTRACTION AREAS WITH SUPPORTING POLICIES AND TO REMOVE ANY MUNICIPAL POWER TO REGULATE PITS AND QUARRIES.

2. THE MUNICIPAL ACT

Amendments to the Municipal Act will also be required in order to clarify the role of the local municipality in relation to the zoning and regulation of pits and quarries. It is therefore recommended that:

SECTIONS 354(1)122 AND 354(1)123 OF THE MUNICIPAL ACT BE REPEALLED.

3. THE ENVIRONMENTAL ASSESSMENT ACT

In order to avoid overlapping jurisdiction in relation to environmental matters it is recommended that:

PITS AND QUARRIES BE EXEMPTED FROM THE PROVISIONS OF THE ENVIRONMENTAL ASSESSMENT ACT SINCE THE NEW AGGREGATES ACT WILL CONTAIN EQUAL ENVIRONMENTAL REQUIREMENTS TO BE APPLIED TO PITS AND QUARRIES.

APPENDIX "A"

EXCERPT FROM REPORT ENTITLED

"THE MINERAL AGGREGATE INDUSTRY IN ONTARIO - SOME ISSUES"

G.M. STAMM ECONOMIC RESEARCH ASSOCIATES

OCTOBER 1978

MUNICIPAL FINANCE ASPECTS OF MINERAL AGGREGATE PRODUCTION

It has been brought to the attention of the Aggregate Producers Association of Ontario that municipalities with pits or quarries located in them view mineral aggregate production operations as financial burdens. In his letter of May 2, 1978, to the A.P.A.O., the Minister of Natural Resources states,

> Licence fees are a contentious issue, but as you are aware, there has been for some time now, considerable pressure from the municipalities to provide financial remuneration for their costs. As I have said, highway and road taxes certainly do not cover user costs today. I believe, however, that all governments are entitled to compensation for direct costs of industry.

In the explanatory remarks the Minister goes on to state,

> We realize the financial contributions your members make through taxes, licences, etc. But I still feel that the local municipalities deserve compensation for the extra costs incurred.

While it is difficult to document completely the financial impact of mineral aggregate operations on a municipality, some general conclusions can be reached through a combination of analysis and reasonable judgement. Below, an analysis is undertaken

for both the Town of Caledon and the Township of Uxbridge. These two municipalities contain very large aggregate operations. If any municipal "extra costs" are likely to be incurred, it will most likely be in these municipalities.

Categories of Municipal Costs in the Mineral Aggregate Industry

Municipal costs are normally categorized into eight categories. To establish the impact, the effect of the mineral aggregate industry on each category should be examined. These eight categories are:

- general government
- protection (police, fire, etc.)
- transportation
- environmental services (water works, sewer, garbage disposal)
- health services
- social and family services
- recreation and culture
- planning and development

Tables 2.1 and 2.2 show the total local expenditure and convert them into expenditure per $1,000 of equalized assessment. In order to establish the proportion of that cost which must be raised from local mill rate levy taxation, the specific grants, general grants and other revenue sources have been removed to develop the net expenditure by category. This effectively calculates the local mill rates required to meet the cost.

TABLE 2.1

MUNICIPAL EXPENDITURES ANALYSIS

TOWNSHIP OF UXBRIDGE, 1977

Expenditure Category	Total Own Expenditure	Gross Expenditure/$1,000 Equalized Assessment	Net Expenditure/$1,000 Equalized Assessment[1]	Regional Net Expenditure/ $1,000 Equalized Assessment[2]
General Government	324,244	2.5853	1.7983	0.5357
Protection	118,862	0.9477	0.5520	0.4899
Transportation	607,735	4.8456	2.0324	1.2639
Environmental	50,560	0.4031	0.2857	-
Health	-	-	-	-
Social and Family	-	-	-	-
Recreation and Cultural	442,104	3.5250	1.2658	-
Planning and Development	34,159	0.2724	0.1124	0.2134
Other	-	-	-	-
TOTAL	1,577,664	12.5792	6.0466	2.5029

[1] This level of expenditure includes any specific or general grants, portions of gross expenditure covered by sources of funds other than taxation levied by mill rates.

[2] The regional requisition on the municipality is distributed among categories based on the region's net expenditure distribution.

TABLE 2.2
MUNICIPAL EXPENDITURES ANALYSIS
TOWN OF CALEDON, 1977

Expenditure Category	Total Own Expenditure	Gross Expenditure/$1,000 Equalized Assessment	Net Expenditure/$1,000 Equalized Assessment[1]	Regional Net Expenditure/ $1,000 Equalized Assessment[2]
General Government	553,096	2.0328	1.5366	0.2498
Protection	468,701	1.7227	1.2416	0.3405
Transportation	1,658,997	6.0974	2.6981	0.4245
Environmental	40,227	0.1478	0.1129	-
Health	3,210	0.0118	0.0090	-
Social and Family	3,565	0.0131	0.0100	-
Recreation and Cultural	869,614	3.1962	1.2494	-
Planning and Development	71,780	0.2638	0.1617	0.0768
Other	-	-	-	-
TOTAL	3,669,190	13.4856	7.0193	1.0916

1 This level of expenditure includes any specific or general grants, portions of gross expenditure covered by sources of funds other than taxation levied by mill rates.

2 The regional requisition on the municipality is distributed among categories based on the region's net expenditure distribution.

The regional government costs have been similarly dealt with. The regional expenditure level by category is based on regional requisitions to the local governments (tax monies collected by the local municipality from mill rate taxation and forwarded to the Region). The requisition is then distributed among the categories according to the distribution of the region net expenditure. In essence, the regional net expenditure levels per $1,000 of equalized assessment are equal to the regional mill rate for that category in the local municipality.

By way of example, the transportation "burden" on the local and regional municipalities can be examined. Caledon spent $1,658,997 on transportation in 1977. This represents $6.0974 per $1,000 of equalized assessment. The Province of Ontario provided substantial grants. Therefore the Town of Caledon found its "burden" for transportation reduced to only $2.6981 per $1,000 of equalized assessment. Using the same concepts, the Region of Peel requisitioned a tax burden of only $0.4245 per $1,000 of equalized assessment in the Town of Caledon.

Using the case of Caledon to illustrate this further, it can be seen that the total expenditure per $1,000 of equalized assessment in Caledon which must be raised through local mill rate taxation is $7.0193. In total, the Region spends $2.3026 of monies raised through mill rate taxation per $1,000 of equalized assessment in the Town of Caledon. The figures are therefore additive. In total, the Town and the Region spend just over $9.32 per $1,000 of equalized assessment of monies which must be raised through mill rate taxation. A comparison of the standard level of taxation expenditure

as between the Caledon area and the Uxbridge area shows that the levels of expenditure are higher in Uxbridge. In the Township itself, the composite expenditure level is approximately $6.05 per $1,000 of equalized assessment while the Region's expenditure is almost $4.41 per $1,000. This composite rate of over $10.45 per $1,000 is over 12% higher than the combined amount in Caledon.

It is against these standards of "normal" expenditure levels by category that the expenditures of the aggregate industry should be measured. (It should be noted that analyses of school expenditures have been omitted here. The total school tax paid by the industry can be regarded as a surplus.)

Two cases have been constructed to estimate the cost burden of mineral aggregate operations on the local municipality. In essence, an estimate is made of the municipal expenditure per $1,000 of equalized assessment in the industry for each category of expenditures. This is then compared to the current average levels as shown on Tables 2.1 and 2.2. The estimates are expressed in comparison to the current average level of expenditure by category. If the cost per $1,000 of equalized assessment in the industry in a category is estimated to be equal to the average level, then the comparative factor is 100%. If the cost is estimated to be only 50%, then that is the factor which applies.

The very nature of mineral aggregate assessment, being comprised largely of stock piled sand and gravel and large scale incombustable machinery makes it much different than

ordinary real estate assessment. The nature of the business operations is such that many of the functions provided by municipalities for ordinary businesses are provided by the industry on a self-help basis.

With respect to the general government category it is reasonable to allocate local expenditure equally to all assessment. Hence the burden imposed by these administrative costs is regarded as being at the average level. With respect to the protection expenditures which include fire and police protection as well as conservation authority and emergency measures, the expenditures are likely to be well below the average level. Mineral aggregate operations use incombustable materials and produce an incombustable product. The fire hazard is reasonably low. The nature of the material is such that theft and other problems requiring policing costs are very low. Certainly by comparison to residential neighbourhoods or urban commercial districts the need for these services is much reduced.

In the environmental services category, there are no costs to the municipality. Mineral aggregate operators are not attached to sanitary sewer systems and provide their own water supplies and storm drainage systems. Also, garbage disposal is handled privately.

In the categories of health services, social and family services, and recreation and culture, the industry imposes no cost to the municipalities.

The transportation expenditure category is one in which a burden is claimed. This is a very difficult category to document since it is almost impossible to allocate specific

road contracts and maintenance costs to specific users. Research covered in Appendix 3 documents the level of road usage by local, regional and provincial roads in the Caledon and Uxbridge production zones. This shows that there is very little use of local roads by mineral operators in either case. In the Caledon production zone, all of the traffic from the three major producers (who comprise 88% of the 1977 production in the Town of Caledon) egresses directly onto provincial highways. A similar situation prevails in the Uxbridge area although in that case extensive use is made of one section of local road to the immediate north of the village of Goodwood.

In the category of planning and development costs municipalities also claim a considerable burden. This claim is difficult to verify. It implies that the processing costs of a mineral aggregate pit or quarry application is greater than that of a subdivision of equal assessment value. The processing of a pit or quarry operation only occurs at the outset of the operation. There are no costs for building inspectors, municipally funded engineering design of public infrastructure, or many of the other costs associated with urban development. There may be offsetting increases in such items as meetings and legal costs.

In developing a range of estimates, the comparative percentages by category for cases A and B were developed. These are shown on Tables 2.3 and 2.4. In general a substantially greater regional transportation burden has been allowed for. At the local level, in the Township of Uxbridge the high percent in transportation is 100% while the low has been set at 50%. It is felt that even the lower proportion may overestimate the actual costs to the township. In the case of Caledon, the local costs are clearly

TABLE 2.3

MINERAL AGGREGATE INDUSTRY MUNICIPAL COST ESTIMATE,

TOWNSHIP OF UXBRIDGE AGGREGATE PRODUCERS

1977

Case	REGION OF DURHAM COST APPORTIONMENT					TOWNSHIP OF UXBRIDGE COST APPORTIONMENT				
	Standard		A		B	Standard		A		B
Categories of Expenditure	$ Expenditure/ $1,000 Uxbridge Equalized Assessment	%	$ Expenditure/ $1,000 Uxbridge Equalized Assessment	%	$ Expenditure/ $1,000 Uxbridge Equalized Assessment	$ Expenditure/ $1,000 Uxbridge Equalized Assessment	%	$ Expenditure/ $1,000 Uxbridge Equalized Assessment	%	$ Expenditure/ $1,000 Uxbridge Equalized Assessment
General Government	0.5357	100	0.5357	100	0.5357	1.7983	100	1.7983	100	1.7983
Protection	1.1055	50	0.5528	25	0.2764	0.5520	50	0.2760	25	0.1380
Transportation	0.8426	200	1.6852	150	1.2639	2.0324	100	2.0324	50	1.0162
Environmental	0.1627	0	0.0	0	0.0	0.2857	0	0.0	0	0.0
Health	0.1257	0	0.0	0	0.0	-	0	0.0	0	0.0
Social & Family	0.5697	0	0.0	0	0.0	-	0	0.0	0	0.0
Recreation and Culture	-	0	0.0	0	0.0	1.2658	0	0.0	0	0.0
Planning and Development	0.2134	150	0.3201	100	0.2134	0.1124	150	0.1686	100	0.1124
Other	-	0	0.0	0	0.0	-	0	-	0	-
Total	4.4093		3.5208		2.5029	6.0466		4.2753		3.0649

Source: Region of Durham 1977 Financial Statement, Township of Uxbridge 1977 Financial Statement, Township of Uxbridge Assessment Rolls

TABLE 2.4

MINERAL AGGREGATE INDUSTRY MUNICIPAL COST ESTIMATE,

TOWN OF CALEDON AGGREGATE PRODUCERS

1977

Case	REGION OF PEEL COST APPORTIONMENT					TOWN OF CALEDON COST APPORTIONMENT				
	Standard		A		B	Standard		A		B
Categories of Expenditure	$ Expenditure/ $1,000 Caledon Equalized Assessment	%	$ Expenditure/ $1,000 Caledon Equalized Assessment	%	$ Expenditure/ $1,000 Caledon Equalized Assessment	$ Expenditure/ $1,000 Caledon Equalized Assessment	%	$ Expenditure/ $1,000 Caledon Equalized Assessment	%	$ Expenditure/ $1,000 Caledon Equalized Assessment
General Government	0.2498	100	0.2498	100	0.2498	1.5366	100	1.5366	100	1.5366
Protection	1.3619	50	0.6810	25	0.3405	1.2416	50	0.6208	25	0.3104
Transportation	0.2830	200	0.5660	150	0.4245	2.6961	50	1.3491	25	0.6745
Environmental	0.1046	0	0.0	0	0.0	0.1129	0	0.0	0	0.0
Health	0.0866	0	0.0	0	0.0	0.0090	0	0.0	0	0.0
Social & Family	0.2299	0	0.0	0	0.0	0.0100	0	0.0	0	0.0
Recreation and Culture	-	0	0.0	0	0.0	1.2494	0	0.0	0	0.0
Planning and Development	0.0768	150	0.1152	100	0.0768	0.1617	150	0.2426	100	0.1617
Other	-	0	0.0	0	0.0	-	0	-	0	-
Total	2.3026		1.6120		1.0516	7.0193		3.7491		2.6832

Source: Region of Peel 1977 Financial Statement, Town of Caledon 1977 Financial Statement, Town of Caledon Assessment Rolls.

negligible and therefore a high of 50% and a low of 25% have been allowed. In order to avoid underestimating, the planning and development cost burden has been set at a high of 150% and a low of 100% for both the local and regional municipalities.

The basic conclusion which can be established is that the expenditure burden imposed by the mineral aggregate industry relative to the value of the assessment is well below the average level. In the Township of Uxbridge the expenditure per $1,000 of equalized assessment is estimated at between $3.06 and $4.28 by comparison to a norm of $6.05. In the Town of Caledon, this spread is even larger with an estimated expenditure per $1,000 of equalized assessment of between $2.68 and $3.75 by comparison to an average level of $7.02. The same pattern holds for the regional municipalities. In the case of the Region of Durham the cost estimates are from $2.50 to $3.52 per $1,000 compared to an average of $4.41. In the Region of Peel, the costs are much lower running at between $1.09 and $1.61 per $1,000 by comparison to an average of $2.30.

Municipal Finance Revenues: The Contribution of the Mineral Aggregate Industry

The existence of the mineral aggregate industry in the rural settings of both Caledon and Uxbridge provide an unusual windfall of commercial assessment for these two municipalities. On Table 2.5 the equalized assessment by category which is contributed by the mineral aggregate industry is shown relative to the total equalized assessment in the municipalities. These data were researched through a complete search of the assessment rolls.

The holdings of the mineral aggregate firms are distributed amongst both residential and farm as well as commercial and business categories. In the Township of Uxbridge 87.6% of the assessment was residential while only 12.4% was commercial and business. In that instance the mineral aggregate producers contribute over $4 million in equalized assessment, or 3.29% of the total. Of that assessment 59% of the total is commercial and business. This $2.4 million of commercial and business assessment is 15.6% of the total commercial and business assessment of the Township of Uxbridge.

In the Town of Caledon the contribution is greater in absolute terms but proportionately less. Here again, the contribution increases the commercial and business proportion. For the Town as a whole only 8.9% of the total assessment is in the commercial and business category. Of the assessment contributed by the mineral aggregate producers, some 54.1% is in the commercial and business category. Thus, while the aggregate industry contributes only 1.6% of the total assessment in the Town, it makes up 10% of the Town of Caledon commercial and business assessment.

TABLE 2.5

CONTRIBUTION OF AGGREGATE PRODUCERS TO
LOCAL ASSESSMENT LEVELS
1977

	Equalized Assessment	Aggregate Producers	% Aggregate Producers
Township of Uxbridge			
Residential and Farm	$109,844,000	$1,686,878	1.5357
Commercial and Business	$15,574,324	$2,425,188	15.5717
TOTAL	$125,418,324	$4,112,066	3.2786
Town of Caledon			
Residential and Farm	$247,322,852	$2,045,938	.8272
Commercial and Business	$24,137,211	$2,413,103	9.9974
TOTAL	$271,460,063	$4,459,041	1.6426

Source: Assessment Roll Information.

Table 2.6 presents the actual level of municipal tax revenue levied through mill rates and producers and it compares these levels to the total tax revenue raised through mill rate taxation. Thus, the aggregate producers contributed $107,250 of taxation in the Township of Uxbridge for local, region and school purposes.[1] This contribution is equivalent to 3.56% of the total mill rate taxation in the Township. The proportionate contribution exceeds the proportion of assessment because the aggregate producers pay the commercial and business mill rates on the majority of their assessment contribution.

(It should be noted that the figures shown include only the tax revenues raised through the application of mill rate taxation. Other payments made by the industry such as licences, fees and other special charges are not included. The revenues raised through mill rate taxation are those funds which by accounting definition offset the expenditures discussed in the last section.)

The revenue and cost data can now be combined to estimate the cost deficit or surplus created by the industry in the local municipality. These calculations are shown on Tables 2.7 and 2.8.

- The estimates show that the mineral aggregate industry generates a surplus for the local municipality, the regional municipality, and the school board. In the Caledon case, the surplus is estimated at between $89,000 and $97,000 out of a total revenue of only $112,000. Thus the surplus

TABLE 2.6

CONTRIBUTIONS TO LOCAL GOVERNMENT, TAX REVENUES GENERATION

(RAISED THROUGH MILL RATES, INCLUDING SUPPLEMENTARY)

1977 (Dollars)

	Local	%	Regional	%	School	%	Total	%
Township of Uxbridge								
Aggregate Producers	28,657	3.56	19,713	3.56	58,880	3.56	107,250	3.56
Township of Uxbridge	803,886		553,013		1,651,523		3,008,422	
Town of Caledon								
Aggregate Producers	34,660	1.69	10,893	1.68	67,009	1.63	112,562	1.66
Town of Caledon	2,048,655		649,487		4,092,002		6,790,144	

Source: Assessment Roll information and Financial Statements.

TABLE 2.7

TOWN OF CALEDON MUNICIPAL TAXATION
SURPLUS GENERATED BY AGGREGATE PRODUCERS
1977 (Dollars)

	Case	Local	Regional	School	Total
Revenue from Aggregate Producers	-	34,660	10,893	67,009	112,562
Costs	A	16,717	7,188	-	23,905
	B	11,964	4,867	-	16,831
Surplus	A	17,943	3,705	67,765	89,413
	B	22,696	6,224	67,765	96,795

Source: G. M. Stamm, Economic Research Associates.

TABLE 2.8

TOWNSHIP OF UXBRIDGE MUNICIPAL TAXATION
SURPLUS GENERATED BY AGGREGATE PRODUCERS
1977 (Dollars)

	Case	Local	Regional	School	Total
Revenue from Aggregate Producers	-	28,657	19,713	58,880	107,250
Costs	A	17,580	14,478	-	32,058
	B	12,603	10,292	-	22,895
Surplus	A	11,077	5,235	58,880	75,192
	B	16,054	9,421	58,880	84,355

Source: G. M. Stamm, Economic Research Associates.

represents 79.4% and 86% of the total revenue. A similar situation prevails in Uxbridge where of total revenues of $107,250, between $75,000 and $85,000 can be regarded as surplus. The distribution of the surplus between the local municipality, the regional municipality and school board is shown. Clearly, all of the tax monies paid to the school board are surplus and this accounts in both instances for the bulk of the surplus. Of the revenues flowing into the regions and local municipalities, a surplus is a significant proportion of the total revenues generated.

The important conclusion is that the mineral aggregate industry does not impose 'extra costs' on the municipal level of government. In fact, indications are that the industry provides a very substantial surplus to the municipalities.

APPENDIX "B"

TECHNICAL BRIEF - ECONOMIC EFFECT

OF SPECIAL LICENCE FEES AND

REHABILITATION SECURITY DEPOSITS

G.M. STAMM ECONOMIC RESEARCH ASSOCIATES

OCTOBER 1979

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G.M. STAMM, ECONOMIC RESEARCH ASSOCIATES

TECHNICAL BRIEF
ECONOMIC EFFECTS OF :

SPECIAL LICENCE FEES
AND REHABILITATION
SECURITY DEPOSITS

AS SET FORTH IN THE REGULATIONS
TO THE PROPOSED AGGREGATES ACT

PREPARED FOR THE AGGREGATE PRODUCERS ASSOCIATION OF ONTARIO

OCTOBER, 1979

INTRODUCTION AND SUMMARY

This technical brief discusses two matters of concern which have arisen out of the Ontario Government's proposal to place a special licence fee and rehabilitation security deposit onto the production of mineral aggregates in Ontario. These two matters are as follows:

1. What is the effect of these financial requirements on the public? In other words, who will shoulder the burden of the licence fee?

2. What are the possible effects of these charges on the industry's structure and operations?

The schedule of applicable fees and security deposits, and the disbursement of the licence fee is shown on Appendix A. While the rates vary, the significant charges for a commercial pit or quarry operation are: 8¢ per tonne for a rehabilitation security deposit (with a maximum of $4,000 and a minimum of $2,000 per hectare), and 6¢ per tonne for a licence fee; which fee is to be disbursed as follows:

- 4¢ per tonne to local municipalities
- 1/2¢ per tonne to counties or regional municipalities
- 1/2¢ per tonne to an abandoned pit or quarry fund
- 1¢ per tonne to the Province.

In summary, the principal points of this brief are as follows:

- The rehabilitation security deposit is a revolving fund, and as such, is expected to have a very minor impact on the cost of mineral aggregates in Ontario.

- The 6¢ licence fee per metric tonne is a significant added cost. At 1978 production rates it totals on the order of $6.6 million.

- The major effect is a redistribution of tax burden. Since most of the added cost would be collected from the province and the municipalities by the producers, the *consuming taxpayers*, both municipal and provincial, are transferring substantial funds $4.4 million, to the *producing municipalities*. This is an unorthodox intergovernmental transfer.

- The minor effect is an increase in the price of housing and other real estate space. This is passed on and permeates the price structure in the entire economy.

TRACING OF EFFECTS OF COST INCREASES

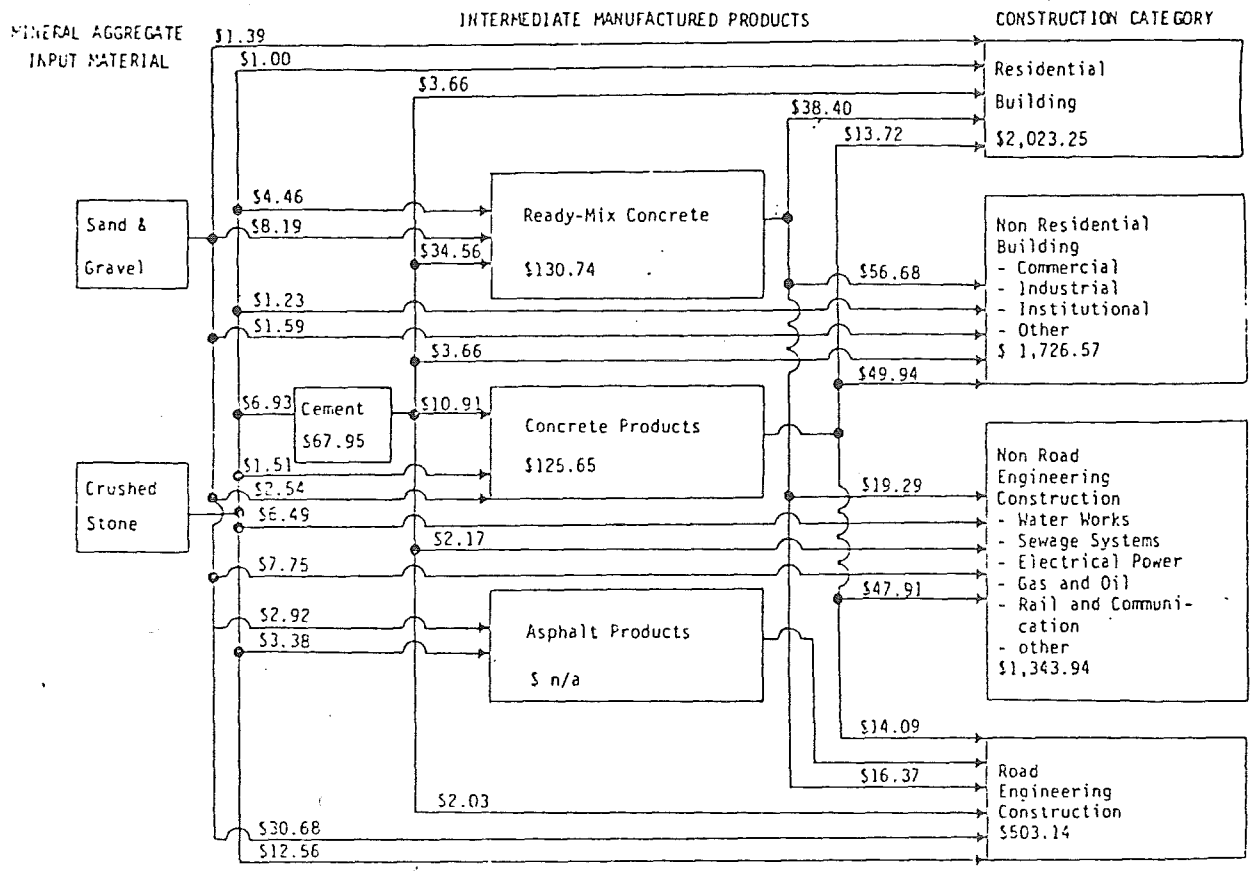
In order to examine the effects of the proposed charges the general pattern of the utilization of mineral aggregates in Ontario must be examined. This is undertaken with the assistance of Figure 1. Figure 1 traces the flows of the material from the pit or quarry through to its utilization in the production of building materials products and its end uses in fixed construction. The types of construction are normally grouped into residential building, non-residential building, road engineering construction, and other engineering construction. This latter category includes such projects as water and sewer construction, dyke and irrigation project construction, refineries, and so forth.

- A change in the cost of production will have an impact on the market sales price for mineral aggregate. Such a price impact will permeate through to the end user in the price of those goods and services which require the material as input.

With reference to Figure 1, an increase in the price of mineral aggregate will generate price increases in asphalt products, concrete products, ready-mix, concrete and cement, as intermediate products. Since the material is used directly in construction of all types, and the intermediate products just mentioned are also used as input into all categories of construction, there will be cost increases in all areas of construction. The effect of these cost increases is to increase the price for the product to the public. In general this will cause the following to occur:

- Housing prices will be increased, as will rent levels caused by those increases.
- The cost of office, industrial, commercial and other types of buildings will be increased. Again, the rental rates on such properties will rise.

FIGURE 1



USE PATTERN OF SAND, GRAVEL & CRUSHED STONE IN CONSTRUCTION
(Flows Measured in $ Millions, 1971)

- Road construction costs will rise.
- The cost of public utility systems and other engineering construction projects will increase.

It is extraordinarily difficult to measure with precision the degree of extra costs incurred. That is so because the increases in price will cause a reduction in the demand for the product by way of reducing the demand for road construction, housing, office buildings and so forth. The economic effect showing how increases in supply cause a decrease in demand are as shown on Figure 2. Since the material is used indirectly, that is, as input into final goods production, the impact on demand for mineral aggregates caused by an increase in the cost and price will vary depending upon the economic market circumstances of the end use product, such as housing or road construction. Each of these must be dealt with separately and the individual effects added together.

In essence, the supply on the market would decrease at a given level, or stated conversely, the supply price for a given level of production would go up. The reduction in quantity produced would be minimal for two reasons. First, the mineral aggregate component of construction does not constitute a very large proportion of the cost of any category of construction with the exception of road building. Second, the actual percentage increase in aggegate cost is not large. Nevertheless, insofar as the Provincial government establishes a fixed annual road construction expenditure, the added cost forces a compensating reduction in road building. This affects the municipalities by way of the Provincial subsidy system in road building. The consequence is that, at the margin, the Provincial and municipal governments will curtail some road construction.

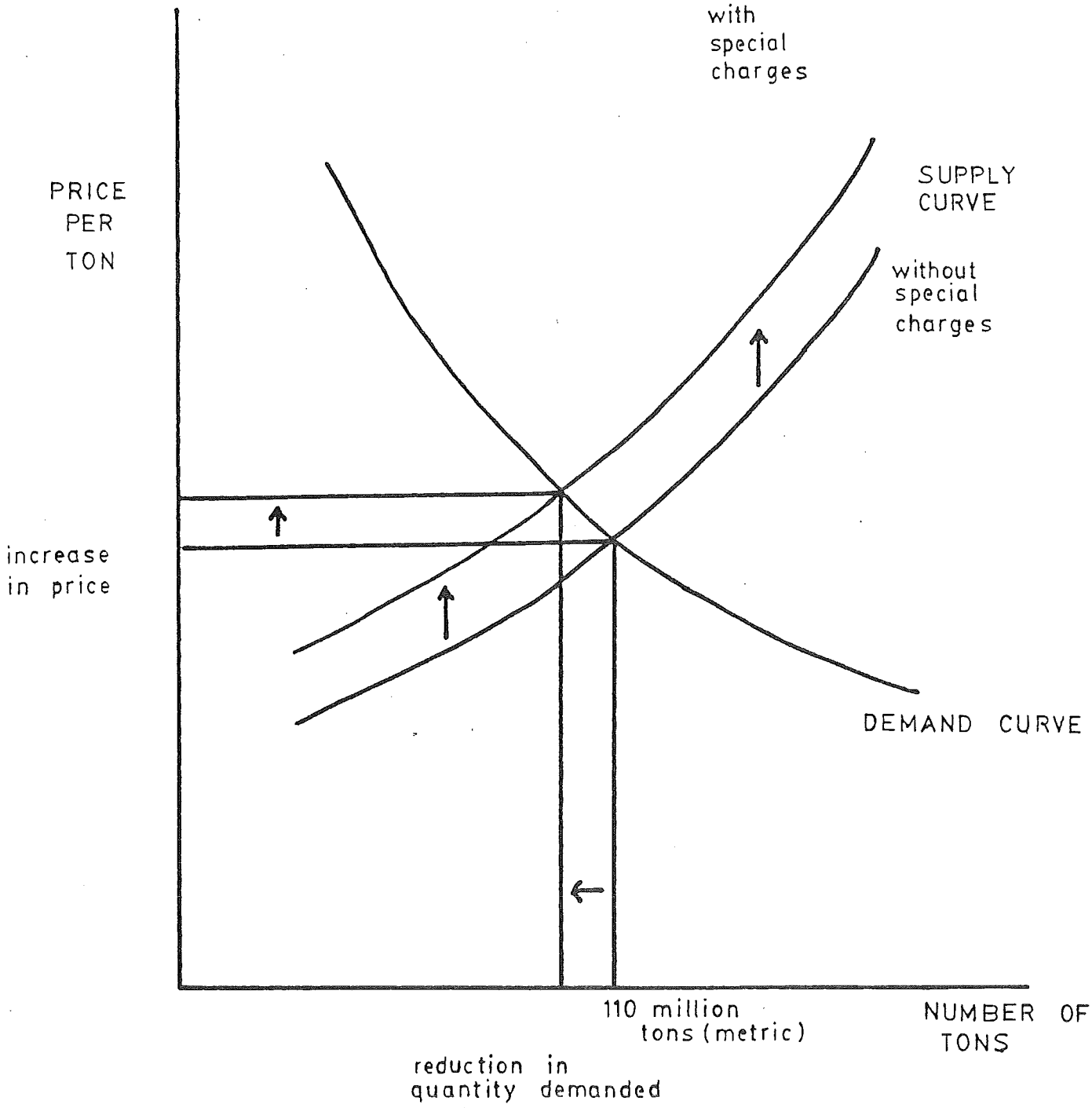
FIGURE 2

MINERAL AGGREGATE MARKET

EFFECT ON PRICE AND QUANTITY

OF SPECIAL LICENCE FEES

(metric tons)



G. M. Stamm, Economic Research Associates

Because mineral aggregate products are used to the greatest extent in projects which are financed through the public sector, the prime impact of the increase in aggregates cost will be to force an increase in taxation, whether municipal, Provincial or Federal. This includes road construction and almost all engineering construction works. Construction projects including roads, bridges, dams, airports, marine works, and irrigation are public sector projects.

- The extra charges are a burden on government taxation sources and cause a redistribution of tax resources amongst the levels of government and the units of government themselves.

Before assessing the actual expenditure impact of the proposed charges, and the distribution of burden, it is necessary to distinguish between the security deposits of 8¢ per ton with maximum and minimum levels per hectare and the special licence charge of 6¢ per ton.

The security deposit does not represent an additional and new cost in aggregate production. The cost, provided rehabilitation is undertaken, is the same with or without the security deposit. The difference is purely one of pre-payment or post-payment. Once the level of the fund has been established through early collections, there is no net addition to those funds unless the production rates increase in terms of hectares as well as tons. Thus there will be collections from the fund and additions to the fund. The revolving expenditure flow is not a new net charge. The only possible additional cost will be the amount of interest forgone on the pre-payment provided that the aggregate producer does not receive that interest on those security deposits. Insofar as the interest payments are received

by the producers, they are technically simply establishing a financial subsidiary which may well be a profit making one.

- For that reason there is no long term effect which will impact the cost and price structure in the aggregate markets *unless the deposits cause continuing losses and must be subsidised by the remainder of the aggregate operations.*

There will however be a cash flow impact resulting from the security deposits. If producers are required to immediately post such deposits to the full extent of their reserves, financial difficulty might well ensue. This is of particular concern to small producers with possibly insufficient capital or borrowing power to obtain such deposits.

The impact of the 6¢ charge will be considerable. In 1978 the level of mineral aggregate production in Ontario was 110 million tons.[1] Thus, at that level of production the total of the licence fee would have been on the order of $6.6 million. (It is recognized that some of the production would not have been chargeable since the Act, in its present form, is not extended to cover the entire Province.)

Mineral aggregate utilization in Ontario has grown rapidly from around 22.7 million metric tons per year in the late 1940's to a present level on the order of 110 million tons. (There are some minor accounting problems with the Statistics Canada estimates). During the period from 1965 to 1978 the figure has been consistently around the 100 million tons per year. Cyclical variation is noted as construction programs increased and decreased over the decade.

---

[1] 110 million metric tonnes equates to 122 million short tons. The special charges are levied on the basis of metric terms.

In the late 1970's road engineering construction accounted for around 51% of the total on average. This is a reduction from earlier, high proportions since road building comprises a lower proportion of total construction than it did during the 1960's highway construction boom. Other engineering construction comprised a further 25% to 26% of mineral aggregate utilization. The remaining 25% went into building construction.

Of road construction, on the order of 80% was undertaken by government, with the remainder being part of the private sector construction program (such as sub-division roads). Given that some of the non-residential building construction is government financed, it is apparent that on the order of 65% of all mineral aggregate utilization is financed through the government sector.

- Using a 1978 production rate, of the $6.6 million of special licence fees, $4.3 million would have been passed on as price increases to the government sector which financed the construction. To that extent these funds represent simply an internal re-circulation of government funds. (See Table 2) Of this total, $2.9 million is remitted to the producing municipalities, i.e. 4¢ out of 6¢.

TABLE 1

MINERAL AGGREGATE UTILIZATION BY CATEGORY OF CONSTRUCTION ONTARIO 1978

Category of Construction	METRIC TONNES (Million)	%
Residential	14.1	12.5
Non-Residential Building	12.3	11.2
Road Engineering	55.2	50.1
Other Engineering	28.9	26.2
Total	110.5	100.0

Source: Estimates by G.M. Stamm Economic Research Associates

TABLE 2

MINERAL AGGREGATE LICENCE FEES[1]
1978, DISTRIBUTION OF BURDEN

Total Licence Fee	110.3 million tons x 6¢ =	6,618,000
Collected from Public Sector	approximately 65%	4,301,700
Collected from Private Sector		2,316,300
Remitted to producing local municipalities	4¢ of 6¢ total	4,412,000
	by other governments	2,868,000
	from private sector	1,544,000
Remitted to Counties or Regions		551,500
Retained by the Province		1,103,000
Transferred to abandoned pit or quarry fund		551,500

It is recognized that there are overestimates insofar as the total provincial production of 110.3 millions tons is included.

From whom are these funds derived? The burden is placed on the property taxpayer of the consuming municipalities, and the Provincial taxpayer who pays for Provincial highways and other construction projects.

- These financial flows are an unorthodox method of creating intermunicipal transfers and provincial subsidies to producing municipalities. It was shown in other technical work[1] that these flows cannot be substantiated as being simply the re-couping of legitimate municipal costs.

The remainder of the $2.3 million of licence fee funding is an add-on cost to private sector construction, whether housing costs or other forms of construction. (It should be noted that since the cost of sub-division road building is recovered in house price sales or rents, these are disproportionately affected). Again, the producing municipalities would gain on the order of $1.5 million from that source. The costs for the licence fee are, of course, passed on in various ways. For example, a manufacturing plant in an industrial park built with more costly aggregates would recoup the additional rental requirement by increasing the price of its product to the consumer. In that fashion it is the housebuyer across the Province and the general public who provide the additional flow of $1.5 million to the producing municipalities.

The Provincial portion of the total licence fee would be $1.1 million. This would be a burden across the entire Province shared by all Provincial taxpayers.

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[1] G.M. Stamm, The Mineral Aggregate Industry in Ontario, Some Issues, Technical Research , page 36

Effects of the Rehabilitation Security Deposit

Insofar as the rehabilitation security deposit is applicable only in designated areas it can be presumed that areas not designated will avoid the process of pit and quarry rehabilitation. That translates into real cost savings to the producers in those undesignated areas. The amounts in question may not be the full 8¢ per tonne because the rehabilitation may very well cost less. Yet that amount is significant, being in some instances of approximately the same order of magnitude as the net profit per tonne. This therefore, provides some competitive advantage to the non-designated producing areas.

A distinction should be drawn between the effect on the industry of the actual rehabilitation cost, as opposed to that of the rehabilitation deposit. The problems of establishing the fund are transitory in nature. The fund must be set up as a cash account much as funds of considerable magnitude must be spent in preparing the requirements for licence. The cash resources of mineral aggregate producers are significantly different according to the specific circumstances. Some will find that the fund can be established with relative ease because of their asset or liquid position. Others, notably the small producers, will find it difficult to maintain such a large block of financial holding in a separate fund unless the cash set aside generates an appropriate return. The modus operandi of the fund which calls for a maximum fund reserve per hectare, will benefit the large producers who operate with high volumes per hectare per gear. The small producer who finds that his resources are used to a lower volume per hectare per year must finance the fund out of lower level of production per hectare. Beyond these relatively minor effects there is little adverse reaction which can be specifically tied to the rehabilitation fund.

It is noteworthy that the requirement for rehabilitation imposes upon the Ontario aggregate producer a cost which is not imposed upon producers in adjacent areas. Thus, the American producer who exports his aggregate into the Windsor area is at a relative advantage to the extent of the rehabilitation cost. Considerable thought should be given to requesting that the federal government impose an import levy up to a level equal to expected rehabilitation costs on imports of mineral aggregates from the United States.

APPENDIX A

SUMMARY OF FINANCIAL ASPECTS OF THE REGULATIONS FOR THE AGGREGATES ACT

Application Fees

Class A licence (more than 20,000 tonnes):	person	$100
	Corporation	$200
Class B licence (20,000 tonnes or less):	person	$ 50
	Corporation	$100
Wayside pit or quarry permit		$ 50
Crown aggregate permit		$ 25

Transfer Fees

Class A licence	person	$100
	Corporation	$200
Class B licence	person	$ 50
	Corporation	$100
Crown aggregate permit		$ 25

Annual Licence Fee

6¢ per tonne of aggregate excavated in the previous year or an amount equal to the application fee, whichever is greater.

Crown Aggregate Permit Fee

$25 for each year or part thereof.

Crown Aggregate Royalty

Minimum of 20¢ per tonne.

Rehabilitation Security

Licensee 8¢ per tonne excavated in the previous year.
Wayside Permittee (other than the Crown) 8¢ per tonne for maximum number of tonnes authorized.
Crown Aggregate Permittee 8¢ per tonne excavated in the previous year.

Maximum Rehabilitation Security per hectare requiring rehabilitation

Licensee	$4,000
Crown Aggregate Permittee	$2,000

Minimum Rehabilitation Security per hectare requiring rehabilitation

Licensee	$2,000
Crown Aggregate Permittee	$1,000

The rate of interest for rehabilitation security held for a licensee or Crown Aggregate permittee is ___%.

The annual Licence fees shall be disbursed as follows:

- 4¢ per tonne to local municipalities
- 1/2¢ per tonne to counties or regional municipalities
- 1/2¢ per tonne to an abandoned pit or quarry fund
- 1¢ per tonne to the province.

APPENDIX "C"

CONSULTANTS' ESTIMATES OF PIT

AND QUARRY REHABILITATION COSTS

The Proctor & Redfern Group
Proctor & Redfern Limited
Consulting Engineers and Planners
75 Eglinton Avenue East
Toronto, Ontario M4P 1H3
Telephone (416) 486-5225 Telex 06-22506

79 09 25

Mr. G.E. Armstrong
General Manager
Aggregate Producers Association
of Ontario
3701 Chesswood Drive
Suite 209
Downsview, Ontario
M3J 2P6

Dear Sir

Pit & Quarry Rehabilitation Costs

Rehabilitation costs have been estimated as requested for four cases, involving different conditions as set out below.

The rehabilitation costs include all necessary earth moving, trimming, grass seeding and mulching.

The construction of perimeter berms and removal of overburden are considered to be mining operations and are therefore excluded from the costs presented below. Also excluded are items such as fencing, tree planting and the importing of topsoil to augment native material.

The costs are presented as a range in cents per ton of aggregate extracted. The lower end of the range assumes a limited depth of overburden on site (1 ft. or 0.3 m) and the upper allows for more overburden (3 ft. or 0.9 m).

Progressive rehabilitation practices have been assumed.

CASE 1 100 Acre quarry with a 100' buffer zone-natural flooding of quarry and rehabilitation of buffer zone with 12" of subsoil and topsoil and seeding. Depth of face 50'. Quantity extracted 17,750,000 tons.

Cost 0.1 - 0.2 cents/ton of aggregate extracted.

CASE 2 100 Acre quarry with a 100' buffer zone of 1:2 side slopes restored with 12" of subsoil and topsoil and seeding. Depth of face 50'. Quantity extracted 16,120,000 tons.

Cost 2.6 - 3.7 cents/ton of aggregate extracted.

2..../

CASE 3 100 Acre pit with a 100' buffer zone with 1:3 side slopes rehabilitated with 12" of subsoil and topsoil and seeding. Depth of face 50'. Quantity extracted 12,200,000 tons.

Cost 3.5 - 4.8 cents/ton of aggregate extracted.

CASE 4 100 Acre pit with a 100' buffer zone with 1:3 side slopes rehabilitated with 12" of subsoil and topsoil and seeding. Depth of face 25'. Quantity extracted 6,560,000 tons.

Cost 6.4 - 8.9 cents/ton of aggregate extracted.

We trust that this information will assist you preparing your studies on this subject.

Yours very truly

The Proctor & Redfern Group

G.D. Fairless, P.Eng.

GDF/mh

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Oakville, Waterloo, Whitby

September 24, 1979

Mr. G. E. Armstrong
Aggregate Producers Association of Ontario
3701 Chesswood Avenue
Suite 209
Downsview, Ontario
M3J 2P6

Dear Sir

We are pleased to provide the following cost estimates for the rehabilitation of four theoretical pit and/or quarry situations.

Given the following theoretical cases and assuming that all other factors which have some bearing on costs are equal, the figures reveal that the cost of rehabilitation is not directly related to the amount of material removed.

Case I — 100 Acre quarry with a 100' buffer zone, natural flooding of quarry and rehabilitation of buffer zone with 12" of subsoil and top-soil and seeding. Depth of face 50'. Extraction 17,750,000 tons.

Case II — 100 Acre quarry with a 100' buffer zone, 1:2 side slopes and floor restored with 12" of subsoil and top-soil and seeding. Depth of face 50'. Extraction 16,120,000 tons.

Case III — 100 Acre pit with a 100' buffer zone, 1:3 side slopes and floor rehabilitation with 12" of subsoil and top-soil and seeding. Depth of face 50'. Extraction 12,200,000 tons.

Case IV — 100 Acre pit with a 100' buffer zone, 1:3 side slopes and floor rehabilitation with 12" of subsoil and top-soil and seeding. Depth of face 25'. Extraction 6,560,000 tons.

.....2

Using current construction costs for material hauling, placing and grading and seeding the approximate rehabilitation costs and relative costs per ton of extraction would be:

	Rehabilitation Cost	Tons Extracted	Rehabilitation Cost Per Ton
Case I	$ 82,223	17,750,000	$.0046
Case II	458,801	16,120,000	.0285
Case III	456,412	12,200,000	.0374
Case IV	435,618	6,560,000	.0664

Should you have any questions with regard to the above information, please do not hesitate to call.

Yours very truly

MARSHALL MACKLIN MONAGHAN LIMITED

Robert E. Bee

R.E. Bee, O.A.L.A.
Sr. Landscape Architect
Planning Department

REB:sr

APPENDIX "D"

SUMMARY OF RECOMMENDATIONS

AND PROPOSED AMENDMENTS

TO THE AGGREGATES ACT

SUMMARY OF RECOMMENDATIONS

AND PROPOSED AMENDMENTS

TO THE AGGREGATES ACT

1. SECTION 1(b) - THE MEMBERSHIP OF THE ONTARIO MUNICIPAL BOARD BE EXPANDED SO AS TO INCLUDE NEW MEMBERS WITH TECHNICAL EXPERTISE IN THE MINERAL AGGREGATE INDUSTRY IN ONTARIO.

2. SECTION 1(c) DELETED

3. SECTION 1(f) BE AMENDED SO AS TO READ:

> "(f) "established pit or quarry" means a pit or quarry or a wayside pit or quarry from which, in the opinion of the Minister, a substantial amount of aggregate has been excavated within the two year period immediately before the coming into force of this Act.

4. SECTION 1(s) BE DELETED

5. SECTION 1(z) BE AMENDED SO AS TO READ:

> "(z) "wayside pit or quarry" means land from which consolidated or unconsolidated aggregate, as the case may be, has been, is being, or may be excavated for use by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right of way."

6. SECTION 2(a) BE AMENDED SO AS TO READ:

> "2. The purposes of this Act are:
>
> (a) to provide for the preservation and orderly development of the aggregate and Crown aggregate resources of Ontario;"

7. SECTION 3(c) BE DELETED.

8. SECTION 4 - A NEW SECTION BE ADDED CONTAINING PROVISIONS GUARANTEEING THE CONFIDENTIALITY OF DATA PROVIDED BY INDIVIDUAL OPERATORS UNDER SECTION 4. THESE PROVISIONS COULD BE MODELED ON SECTIONS 49 TO 56 OF THE ONTARIO ENERGY BOARD ACT R.S.O. 1970, c.312 (as amended).

9. SECTION 5 BE AMENDED SO AS TO READ:

"5. This Act and the Regulations apply to all parts of Ontario."

10. SECTION 7 (1) BE AMENDED SO AS TO READ:

"7(1) Subject to section 24 and section 34(1) of this Act, any person may apply to the Minister in the prescribed form for a licence or a permit to excavate aggregate from a pit or quarry, a wayside pit or quarry or a Crown aggregate pit or quarry."

11. PARTS 11, 111 AND V - ALL REFERENCES TO CLASS A AND CLASS B LICENCES BE DELETED AND THE REQUIREMENTS SET OUT IN THE PROPOSED LEGISLATION FOR CLASS A LICENCES BE ADOPTED AS THE REQUIREMENTS FOR ALL LICENCE AND PERMIT APPLICATIONS INCLUDING APPLICATIONS FOR WAYSIDE AND CROWN AGGREGATE PITS AND QUARRIES EXCEPT FOR WAYSIDE PERMITS ISSUED TO PERSONS IN CONNECTION WITH PROJECTS UNDERTAKEN PURSUANT TO CONTRACTS WITH THE MINISTRY OF TRANS-PORTATION AND COMMUNICATIONS.

12. SECTION 10 BE DELETED.

13. SECTION 11(b) BE AMENDED SO AS TO READ:

"(b) the preservation and orderly development of the aggregate resources of the province;"

14. SECTION 12 BE AMENDED SO AS TO READ:

"12(1) Where the Minister is satisfied that an application for a licence or permit and the documents accompanying it comply with this Act and the regulations, he shall within one month of receipt of the application, refer the application to any Ministry of the public service of Ontario that may be concerned therewith and, the Minister shall refer the application to the clerk of the regional municipality or county, as the case may be, and to the clerk of the local municipality in which the site is located for their information and comment.

(2) All comments under subsection 1 shall be made in writing and shall be sent to the Minister and to the applicant within two months from receipt of the application.

(3) The council of the local municipality shall cause the applicant to hold a public meeting for the purpose of explaining the application and receiving the comments of the inhabitants of the municipality in connection with the application.

(4) The Minister shall review all of the comments received and shall then give notice of his intention to issue or to refuse to issue a licence or permit.

(5) The notice under subsection 4 shall be given in writing and shall be served upon the applicant no later than four months after receipt of the application under Subsection 1.

(6) When the Minister gives notice of his intention to issue a licence or permit under subsection 4, the applicant must cause notice of the application and of the Minister's decision to be published in the prescribed form in two successive issues of at least one daily or weekly newspaper having general circulation in the municipality in which the site is located.

(7) As soon as the publication of the notice has been completed, the applicant shall notify the Minister thereof.

(8) Any person, including any municipality, may serve upon the Minister and upon the applicant within twenty one days of the last publication date under subsection 6 a notice that he or it objects to the issue of the licence or permit applied for and the reasons therefor.

(9) Any person who has served a notice under subsection 8 may, in addition, serve upon the Minister and upon the applicant within the time period set out in subsection 8, a notice that he requires a hearing of the matter before the Board.

(10) Where no notice has been served upon the Minister under subsection 8, the Minister shall issue or give notice of his refusal to issue the licence or permit within ten days.

(11) Where a notice is served upon the Minister under subsection 8 the Minister shall forthwith refer the matter to the Board for a hearing.

(12) The Minister may, on his own motion, refer an application and the objections, if any, to the Board for a hearing.

(13) The Board shall fix a date for the hearing which date shall be no later than two months from the receipt of the reference from the Minister.

(14) Where, under the Planning Act, an application for an amendment to any relevant restricted area by-law is before the Board for a hearing and an application under this Act is referred to the Board, the Board shall consider both matters at one hearing.

15. SECTION 13(2) BE AMENDED SO AS TO READ:

"13(2) Where, in the opinion of the Minister, new information in relation to the operation of a pit or quarry, a wayside pit or quarry or a Crown aggregate pit or quarry, not available at the time of the issuance of a licence or permit, requires the addition of condition to a licence or the revision or variation of a condition of a licence, the Minister may make such addition, revision or variation."

16. SECTION 14(1) BE AMENDED SO AS TO READ:

"14(1) Every licensee and every wayside permittee shall pay to the Treasurer on or before the 15th day of March in each year an annual fee for the previous year in the amount of $25.00 for a person other than a corporation and $100.00 for a corporation and if it is not so paid, the Minister may revoke the licence or permit."

17. SECTION 14(3) AND 14(4) BE DELETED.

18. SECTION 16(1) BE AMENDED SO AS TO READ:

"16(1) Where in the opinion of the Minister, new information in relation to the operation of a pit or quarry, a wayside pit or quarry or a Crown aggregate pit or quarry, not available at the time of the issuance of a licence or permit, requires an amendment to the site plan, the Minister may make such amendment."

19. SECTION 21(2) BE AMENDED SO AS TO READ:

"21(2) Subject to compliance with the provisions of section 23, the Minister may revoke a licence or permit for any contravention of this Act, the regulations, the conditions of the licence or permit or the requirements of the site plan."

20. SECTION 21 BE AMENDED BY ADDING THE WORDS "PERMIT" AND "PERMITTEE" SO THAT THE SECTION APPLIES TO BOTH LICENCES AND PERMITS AND BY ADDING THE FOLLOWING SUBSECTION:

"(7) The Board shall fix a date for the commencement of the hearing which date shall be no later than two months from the receipt of the reference from the Minister."

21. SECTION 22 BE AMENDED SO AS TO READ:

(1) Where a matter is referred to the Board under section 12 or 21, the Board shall hold a hearing and the applicant, licencee or permittee, the Minister and such other persons as the Board specifies shall be parties to the proceeding.

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the Ontario Municipal Board Act.

(3) The Board shall issue a decision within one month after the conclusion of a hearing under this section."

22. SECTION 23 BE AMENDED SO AS TO READ:

"23(1) The Minister may suspend a licence or permit for any period of time, not exceeding three months for any contravention of this Act, the regulations or the conditions of the site plan, effective thirty days from the date the notice mentioned in subsection 2 is served upon the licensee or permittee.

(2) Where the Minister has suspended a licence or permit he shall serve notice thereof, including the reasons therefor, upon the licensee or permittee and upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located.

(3) The notice mentioned in subsection 2 shall, in addition to the particulars mentioned therein, notify the licensee or permittee of the date the suspension will become effective, the period of the suspension, the action he must take or desist from taking before the suspension will be removed, that the suspension will be removed as soon as he has complied with the notice to the satisfaction of the Minister, and that if he does not comply with the notice within the period of supension, the Minister may revoke the licence or permit.

(4) Where the licensee or permittee complies with the notice mentioned in subsection 2 to the satisfaction of the Minister, within thirty days from the date the notice is served on the licensee or permittee, the suspension will not become effective.

(5) Where a licensee or permittee whose licence or permit has been suspended has not taken the required remedial action within the period of suspension, the Minister may exercise his power under subsection 2 of section 21 and revoke the licence, or permit in which case subsections 3 to 7 of that section apply."

23. SECTION 24 BE AMENDED SO AS TO READ:

"24. Any public road authority that has a project that requires aggregate or any person who has a contract with a public road authority for such a project may apply to the Minister in the prescribed form for a wayside pit or quarry permit."

24. PART III BE AMENDED SO THAT ITS PROVISIONS APPLY ONLY TO PERMITS FOR WAYSIDE PITS AND QUARRIES ISSUED TO PERSONS IN CONNECTION WITH PROJECTS UNDERTAKEN PURSUANT TO CONTRACTS WITH THE MINISTRY OF TRANSPORTATION AND COMMUNICATIONS; SECTIONS 34(3),35,36(2) AND 44 BE DELETED AND REFERENCE BE HAD TO THE GENERAL LICENCING AND APPEAL PROVISIONS OF THE LEGISLATION.

25. SECTION 33 BE AMENDED SO AS TO READ:

"33(1) Where there is an unlicenced pit or quarry, the Minister may,

(a) after consultation with the owner of the land on which the pit or quarry is located; and

(b) after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located,

declare the pit or quarry to be abandoned for the purposes of subsection 2.

(2) Where the owner of land on which an abandoned pit or quarry is located does not submit proof to the satisfaction of the Minister that he has rehabilitated the abandoned pit or quarry the Minister may enter upon the land and perform such rehabilitation work as he considers necessary.

(3) The cost of rehabilitation work performed by the Minister under subsection 2 is a debt due to the Crown by the owner of the land and is recoverable by the Crown in any court of competent jurisdiction."

26. SECTION 40 BE AMENDED AS TO READ:

"40 Every Crown aggregate pit or quarry permittee shall pay to the Treasurer a permit fee in the amount of $25.00 for each year or part thereof in which the permit is in force and effect."

27. SECTION 45(1) BE AMENDED SO AS TO READ:

"45(1) The Minister shall determine the royalty per tonne that each Crown aggregate permittee must pay under subsection 2, but in no case shall the royalty be less than 20 cents per tonne and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the Crown aggregate and its intended use."

28. SECTION 48 BE AMENDED SO AS TO READ:

"48(1) Every licensee shall pay to the Treasurer on or before the 15th day of March in each year an amount equal to 5 cents per tonne of material removed from the site in the previous calendar year as security for the rehabilitation of the site.

(2) The payments specified in subsection 1 cease when the total to the credit of the licencee in all of his accounts reaches $100,000.00 or $3,000.00 for each hectare of each site, excluding any plant site as set out in the approved site plan, that in the opinion of the Minister requires rehabilitation whichever is the greater."

29. SECTION 49 BE AMENDED SO AS TO READ:

"49(1) Every person who applies for a permit for a wayside pit or quarry shall, before the permit is issued, pay to the Treasurer a sum equal to 5 cents per tonne authorized by the permit as security for the rehabilitation of the site."

(2) The payment specified in subsection 1 shall not be required in the case of a permit for a wayside pit or quarry for a project undertaken pursuant to a contract with the Ministry of Transportation and Communications.

30. SECTION 50 BE AMENDED SO AS TO READ:

"50(1) Every Crown aggregate permittee shall pay to the Treasurer on or before the tenth day of the month immediately following the month in which the Crown aggregate was removed from the site a sum equal to 5 cents per tonne of Crown aggregate removed from the site as security for the rehabilitation of the site.

(2) The payments specified in subsection 1 cease when the total to the credit of the Crown aggregate permittee in all of his accounts reaches $100,000.00 or $3,000.00 for each hectare of each site, excluding any plant site as set out in the approved site plan, that in the opinion of the Minister requires rehabilitation whichever is the greater.

31. SECTION 51 BE AMENDED SO AS TO READ:

"51(1) Sums paid by a licensee, a wayside pit or quarry permittee or a Crown aggregate permittee under Section 48, 49 or 50 shall be held in the manner prescribed in an account in his name and shall be paid out in accordance with this Part.

(2) Interest earned on the sums held under subsection 1 shall be deemed to form part of the rehabilitation security.

32. SECTION 52 BE AMENDED SO AS TO READ:

"52(1) Where a licensee or permittee submits proof to the satisfaction of the Minister that he has performed progressive rehabilitation on his site in accordance with this Act, the regulations, the conditions of his licence or permit and the requirements of his site plan, he is entitled to a refund not more than twice a year out of his rehabilitation security account in accordance with the regulations.

(2) The Minister shall determine the amount of the refund mentioned in subsection 1, but in no case shall the amount of the refund reduce the amount remaining in the rehabilitation security account of the licensee or permittee to less than $600 for each hectare requiring rehabilitation, excluding any plant site as set out in the approved site plan.

33. A NEW SECTION SHOULD BE ADDED AS FOLLOWS:

"New If owing to special circumstances, it is deemed inequitable that the whole amount of the sums required to be paid as security for rehabilitation under sections 48, 49, and 50 of this Act be paid, the Minister may with the approval of the Lieutenant Governor in Council, exempt a licensee or permittee from the payment of the whole or any part of such sums."

34. SECTIONS 62(a) AND 62(h) BE AMENDED SO AS TO READ:

"62. The Lieutenant Governor in Council may make regulations

(a) respecting the preservation and orderly development of the aggregate and Crown aggregate resources of Ontario

(h) respecting the control, and operation of pits and quarries, wayside pits and quarries, and Crown aggregate pits and quarries.

35. SECTION 62(f) AND 62(g) BE DELETED.

36. SECTION 62 BE AMENDED BY DELETING SECTION 62(e) AND AMENDING SECTION 62(i) SO AS TO READ:

"62(i) Prescribing the royalty for Crown aggregate and providing for the payment thereof."

37. SECTION 62 BE AMENDED BY DELETING SUBSECTION (l) AND BY ADDING A NEW SUBSECTION AS FOLLOWS:

"New Providing for the investment of the sums paid under sections 48, 49 and 50 and providing for refunds from rehabilitation security accounts."

38. SECTION 62(o) BE DELETED.

39. SECTION 65 BE AMENDED SO AS TO READ:

"65(1) Where the requirements of section 7, except clause c of subsection 2, are compiled with during the six-month period next following the coming into force of this Act, a licence for an established pit or quarry must be issued or refused during the twelve-month period next following the comming into force of this Act.

(2) Notwithstanding subsection 1 of section 55, a person who applies for a licence during the six-month period next following the coming into force of this Act may operate his established pit or quarry without a licence until the licence is either issued or refused or until the expiry of the twelve-month period next following the coming into force of this Act, whichever occurs first.

(3) Subsections 2 to 13 of section 12 do not apply where an application for a licence for an established pit or quarry is made during the two-year period next following the coming into force of this Act.

(4) Notwithstanding subsection 3 of section 13, where an application for a licence for an established pit or quarry is made during the two-year period next following the coming into force of this Act, the Minister may issue a licence for an established pit or quarry even if its location contravenes any relevant restricted area by-law.

(5) For the purpose of this Act and the regulations, where a person has been issued a licence for an established pit or quarry, he shall be deemed to be a licencee from the date of the coming into force of this Act."

APPENDIX "E"

SUMMARY OF PROPOSED AMENDMENTS

TO RELATED LEGISLATION

SUMMARY OF PROPOSED AMENDMENTS

TO RELATED LEGISLATION

1. SECTIONS 33 AND 35(a) OF THE PLANNING ACT BE AMENDED BY ADDING THE FOLLOWING SUB-SECTION:

   "New This section shall not apply to any land or any development on land that is a pit, or quarry, wayside pit or quarry, or a Crown aggregate pit or quarry as defined in the Aggregates Act."

2. THE PLANNING ACT BE AMENDED TO DEFINE THE MAKING OF A PIT OR QUARRY AS A USE OF LAND WITHIN THE MEANING OF SECTION 35(1) OF THE PLANNING ACT.

3. SECTION 36(1)6 OF THE PLANNING ACT BE REPEALLED.

4. THE PLANNING ACT BE AMENDED TO PROVIDE THAT IN REGIONS AND COUNTIES WITH APPROVED OFFICIAL PLANS INCORPORATING DESIGNATED MINERAL AGGREGATE EXTRACTION AREAS WITH SUPPORTING POLICIES, LOCAL ZONING BY-LAWS CEASE TO APPLY TO THE CONTROL AND LOCATION OF PITS AND QUARRIES.

5. SECTION 35(2) OF THE PLANNING ACT BE AMENDED TO REMOVE MUNICIPAL POWER TO PROHIBIT PITS AND QUARRIES IN REGIONS AND COUNTIES WITH APPROVED OFFICIAL PLANS INCORPORATING DESIGNATED MINERAL AGGREGATE EXTRACTION AREAS WITH SUPPORTING POLICIES AND TO REMOVE ANY MUNICIPAL POWER TO REGULATE PITS AND QUARRIES.

6. SECTIONS 354(1)122 AND 354(1)123 OF THE MUNICIPAL ACT BE REPEALLED.

7. PITS AND QUARRIES BE EXEMPTED FROM THE PROVISIONS OF THE ENVIRONMENTAL ASSESSMENT ACT SINCE THE NEW AGGREGATES ACT WILL CONTAIN EQUAL ENVIRONMENTAL REQUIREMENTS TO BE APPLIED TO PITS AND QUARRIES.