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July 17, 2006

Bill Hutson, Area Manager,
Ministry of Natural Resources,
P.O. Box 820, Minden, Ontario, K0M 2K0

Ken Chang-Kue, Impact Assessment Biologist
Department of Fisheries and Oceans
501 Tower Hill Road,
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Gary Muloin, Senior Environmental Officer
Ministry of the Environment
Peterborough District Office
300 Water St. Robinson Place, 2nd Fl, South Tower
Peterborough, Ontario K9J 8M5

Re: Proposed Asphalt Plant by Royel Paving, in Irondale, Ontario

Dear Sirs,

This letter is jointly addressed to MNR, DFO, and MOE.

At the company hosted public open house on July 15, 2006, at the aggregate site operation in Irondale, I was able to view and inspect the property. I have a Ph.D. in stream fishery science with expertise on small stream habitat and terrestrial-aquatic landscape-scale processes on the Precambrian Shield of South-Central Ontario. I live in the County of Haliburton but am far enough away from the location of discussion to have no direct or indirect conflicts of interest; that is, the proposed asphalt plant should not have any effect on my personal or professional interests. I am writing this letter as a conscientious biologist and citizen.

Concerning the existing aggregate extraction operation and proposed asphalt plant by Royel Paving, in Irondale, Ontario I would like to make the following points:

- I have seen or heard nothing from MNR or DFO to convince me with absolute certainty that harmful alteration, disruption or destruction of fish habitat did not occur at the site when stream and pond areas were destroyed.
- A de facto exemption permitting harmful alteration, disruption or destruction of fish habitat was granted by MNR without appropriate review by DFO. A letter from Gary Clements, dated September 22, 2003, to me concerning this matter stated that ponds that were drained were not significant fish habitat and therefore

DFO was not consulted. He does not, however, provide any evidence for the conclusion that they were not significant fish habitat. Were these ponds electrofished prior to draining? Aerial photo (87-4437, 17-228) clearly shows that the ponds have water in them and are not dry.

- If the ponds that have been destroyed were dry as has been suggested, and were functionally wetlands, why were they not evaluated in order to determine if their destruction would contravene the provincial policy statement on natural heritage? This may not have been a legal requirement but if MNR cannot afford to evaluate wetlands, surely when their destruction is proposed by business interests and the wetlands are on crown land, they should be formally evaluated. Perhaps that was part of the Impact Assessment; please clarify.
- Mitigation of harmful alteration, disruption or destruction of fish habitat was not compensated for by creation of fish habitat in the surrounding drainage ditch or if that was mandated it has not been properly achieved.
- The working yard of the aggregate operation is too close to the new stream.
- Heavy sedimentation from run-off is occurring in the stream particularly at the culverts (see accompanying photos).
- There are no obvious risk management measures in place to stop movement of aggregate products into the stream thus allowing for harmful alteration, disruption or destruction of fish habitat in the stream and further downstream.
- The main pile of aggregate screenings is immediately adjacent to the stream at a very steep slope that would be conducive to mass movement (see photos).
- The lower end of the stream, near the highway is clearly permanent stream habitat (there is water in it now during the hottest time of the year) and this existing habitat is at risk of harmful alteration, disruption or destruction of fish habitat from upstream land-use activities.
- Coarse rock obstructions that prevent passage by fish would have been unnecessary as preventative measures against siltation and for stabilization of nearby roadbed if the workyard was further away from the stream. A lower-ratio slope dressed with topsoil and planted with riparian vegetation would have achieved all drainage objectives while at the same time preventing siltation and other runoff concerns and creating viable fish habitat. Not only was destruction of the original ponds unassessed and unjustified, but there has been a missed opportunity to mandate creation of stream habitat as compensatory measures. Already, the stream has been colonized by frogs, snakes, aquatic plant species, etc. but because of its poor design it has significant impairments built into it; those being the potential for sedimentation, and the presence of coarse rock barriers.

The stream was obviously designed by a hydro-geologist without the input of a biologist.

- Placing an asphalt plant immediately adjacent to the stream would likely result in materials and substances associated with the operation going into the stream. This is my opinion because of current operational practices, because of an absence of risk management measures such as significant riparian buffers, and because it does not appear to be considered as stream habitat but rather as a drainage ditch. If an asphalt plant is allowed to operate on site, the MOE in addition to requiring atmospheric monitoring under Ontario Regulations 346/349, should require source water monitoring, for such things as PAHs, and other organic contaminants. I would recommend the use of Semi-Permeable Membrane Devices for this purpose. This is not required under regulation but could be requested of the company as a goodwill gesture.

Finally, I would like to state that in my doctoral research (on file at Minden MNR office), I was able to demonstrate that small streams (less than 0.5m in width) on the Precambrian Shield are frequently critical fish habitat in a watershed and function as nursery habitat, thermal refugia, and spawning habitat. Streams may be used seasonally or inter-annually by fish. Judgment of the significance of such small streams as fish habitat cannot be determined without thorough field studies.

I would also like to remind that with the province's new shift towards source water protection it is incumbent upon the Ministry of Natural Resources and the Ministry of the Environment to ensure that no unnecessary risks to source water are being allowed. Further, it is the mandate of Fisheries and Oceans Canada to ensure that harmful alteration, disruption or destruction of fish habitat is not allowed under the Federal Fisheries Act, or if an exemption is allowed pursuant to subsection 35(2) of the Fisheries Act it is thoroughly justified and that compensatory measures are implemented, and that subsequent monitoring and enforcement occurs. In my opinion, there is no evidence that due diligence has been exercised as pertains to the Federal Fisheries Act, or Lakes and Rivers Improvement Act. This project should have been reviewed by DFO according to the Canadian Environmental Assessment Act (CEAA). I am thereby copying this letter to the office of the Environmental Commissioner of Ontario whose responsibility it is to report to provincial parliament failures to enforce the environmental laws in effect in Ontario.

Thank you for attention to this matter and I look forward to your response.

Sincerely,



Dr. Brent Wootton, B.I.S., M.E.S., Ph.D.

cc. Gord Miller, Environmental Commissioner of Ontario

enc. photos

Photo 1 Stream Habitat, July 15, 2006



Photo 2 Stream blockage by boulders, July 15, 2006



Photo 3 Stream blockage by boulders, July 15, 2006



Photo 4 Stream blockage by rocks, July 15, 2006



Photo 5 Stream sedimentation at culvert, July 15, 2006



Photo 6 Stream at risk from erosion of aggregates pile, July 15, 2006

