I am Reg Holloway, a resident of Mountain Lake in the township of Minden Hills (Haliburton county) and I write on behalf of the neighbours of two “grandfathered” operations at the southern end of the lake. This submission is a plea for an end to the practice of “grandfathering” and for an independent review of examples similar to our’s.

About 100 homes on or close to Mountain Lake are within 500 metres of the two operations - a pit and a quarry. Our story begins in 2007 when Minden Hills council was given responsibility for dealing with applications for new extraction operations (with a public meeting and so on). However in order to allow existing pits and quarries to continue, the special process of grandfathering was introduced, with no public participation or notification. Owners were invited by the MNR to apply for a licence which was first examined by the council as the land-use authority. The council could certify if properties were zoned for extraction or in operation as pits or quarries before the introduction of zoning bylaws (making them legal non conforming).

Minden Hills council certified the applications but did not check them or ask for proof of the existence of the operations. It thought the MNR would do this. However the MNR did not check either – it relied on the council’s endorsement. This despite the fact that the Aggregate Resources Act requires the Minister to be satisfied that the application was for an “established pit or quarry” from which a “substantial amount” of aggregates had been removed within the previous two years. Local memory suggests that neither operation would have met these qualifications.

After this questionable start, there began the process based on the extraordinary powers, all beyond public scrutiny, that “grandfathering” confers on the MNR. The regulations are intended to allow existing operations to continue (inferring the same size) but on Mountain Lake, the Ministry decreed their expansion to much larger sizes than the owners had requested. One of the operations, the pit, which the council thought had been a “mom and pop” operation of a few acres, was given a licence for 70 acres. This was twice the size of the total area of the property. The quarry, which had been zoned for six acres, was given a licence for 18 acres, the total area of the property. When challenged, the MNR said simply it was empowered to do what it had done. After much correspondence initiated by the neighbours, both licences were reduced somewhat though the areas of extraction remain larger than shown on the applications.

Then there was the matter of the siteplans. The MNR policy is that siteplans are an essential element in the licensing of pits and quarries and without one, an operation cannot continue. In fact, since issuing the licences, it has taken the MNR six years to draw up site plans and meanwhile the Ministry has not cancelled the licences or required annual compliance certificates (also said to be essential). The local community knew nothing about the grandfathering for several years. It woke up one morning to the noise of quarrying on a property that had been used on a very small scale at various times and had been dormant for years. By chance, the other property was discovered on the GravelWatch website.

Since then my neighbours and I have pressed the Ministry and the Municipality to help mitigate the nuisance. In the absence of any assistance, the community has enlisted the (very welcome) co-operation
of the two owners in agreeing hours of operation (8am – 5pm weekdays only) that are shorter than those in the council’s noise by law and now the MNR’s site plans (7am – 8pm Monday to Saturday).

We are concerned about what may happen if the operations change hands. We asked the council to embed the hours agreed with the owners in the noise bylaw and to apply them to extraction operations in residential areas (or, say, within 500 metres of a dwelling). The Council withdrew from a limited step in this direction after the MNR warned that it could over-ride any municipal bylaw. So far, the council has concluded that it has no jurisdiction (though this could be argued regarding noise bylaws) and it seems likely that despite requests by the neighbours, the matter will not be discussed in council.

We also asked the MNR to include the shorter hours in the specific siteplans for the two operations but it declined to do so and has used the longer hours that are in the noise bylaw.

The situation has been developing against the background of a growing awareness that the local economy depends on promoting the natural beauty of our area and attracting more permanent residents and summer visitors. The two extraction operations alongside Highway 35 and the lake will make this very difficult. Retirees especially, will be reluctant to invest any of their finite savings in property that, because of the quarries, is sliding downwards in value.

The present situation is contrary to the Provincial Policy Statement which says resource extraction activities should be buffered and separated from sensitive land uses [including dwellings] to prevent adverse effects from noise and other contaminants (para 1.7.1.e:p13). The Official Plan says much the same thing: that extraction shall be undertaken in a manner that minimizes social and environmental impacts. These are comforting words but they are rendered meaningless by grandfathering.

My neighbours and I hope the Committee will take note of our experience and consider recommending that grandfathering be abandoned and replaced by an open procedure with public participation. Also we think it would be reasonable to suggest that cases like those at Mountain Lake should be the subject of an independent review.

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