INTRODUCTION

AGGREGATE RESOURCES ACT REVIEW

SUBMISSION TO THE STANDING COMMITTEE

BY Dr. LARRY JENSEN, PHD Geoscience

17 Minnewawa Rd,
Mississauga, Ontario
905-274-8165

Attention: Sylwia Przezdziecki and Tamara Pomanski,
Room 1405, Whitney Block/Bureau 1405, édifice Whitney
Queen's Park, Toronto, ON  M7A 1A2

Thank you for your consideration.

Self-policing and lack of MNR supervision and enforcement, facilitated by high berms
and deep excavations with no trespassing signs along their perimeters, means that a
complaint driven system of enforcement of the site plans of an aggregate operation is
largely ineffective in preventing and correcting non-compliance issues that seem all too
often to occur in the aggregate industry.

Recommendation:

1. That the ARA removes self regulation and self-compliance reporting from the
   industry and that these duties become the sole responsibility of the MNR or an
   independent third party.
2. Compliance assessment reports be done on an annual basis by independent inspectors and auditors.

3. That adjacent land owners and residents being negatively impacted can investigate on site suspected noncompliant issues in conjunction with MNR personal or an independent inspector in a timely manner.

Case Example where the present system failed:

Zorra Township opened an above water aggregate pit on Lot 31, Con 1, West Zorra Township in the spring of 2010. The township was repeatedly warned that erosion and drainage problems would occur and that they would intersect the water table in the wetland if they excavated a settling pond within the wetlands if they followed the site plans.

During in the construction of the haulage road, berm and settling pond for their aggregate pit, the aquifer below the wetlands was breached and water began flowing at a rapid rate into my property. According to the site plans, breaching the aquifer would be illegal.

During June and July of 2010, water and sediment were both crossing the road and flooding my property as it made its way to cold water Harrington Creek. I filed a complaints with the MNR aggregate inspector Chris Black with little success between March to August 2010.

Finally, in late September, 2010 Mr. Black from the MNR did inspect the property and found the problems I complained about. (I requested to accompany Mr. Black to show him the problems on my property but he avoided that suggestion.)

Dear Dr. Jensen;

Further to your recent complaint regarding the Zorra Township aggregate pit on 31st Line (the “Robinson Pit”), I have completed my review and inspection and can now provide you with my comments:

A review of the site plans was conducted regarding the matters you brought to my attention in your complaint. This was followed up with a site inspection on September 29, 2010. During the inspection, several items were identified that were not in compliance with the site plans. These included a spring
located within the sediment-settling pond; erosion in some spots on the acoustic berms; culverts and drainage swales that had been filled with silt and sediment; and the lack of a second culvert under the haul road as required on the site plans.

As a result of this inspection, the Township has been ordered to take remedial actions to rectify the above matters by no later than the end of this month. I have stressed to the Township the urgency in addressing these issues at the earliest opportunity. I will continue to monitor this situation to ensure that these remedial actions are completed on time.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,

Chris Black

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Chris Black, MSc. (PI)
Aggregate Resources Technical Specialist
Ministry of Natural Resources
615 John St. N
Aylmer, ON N5H 2S8
519.773.4747
chris.black@ontario.ca

During this time period Harrington McAvan Ltd issued a glowing Compliance Assessment Report for Zorra Township’s newly opened aggregate pit that contradicted Mr. Black’s subsequent findings. This Compliance Report was received by the Alymer office of the MNR.

Assessment Date: July 26/10.
The Township has done an excellent job in the site preparation work (access road and berm construction, fencing and gates, marking setbacks, tree planting, installing sediment controls, etc.) in a short time frame since the licence was issued earlier this year. There was little evidence of erosion or sedimentation problems on site even after the heavy rainfall events last week. As discussed, there are a few site conditions that differ from what is shown on the site plans and should be addressed through a minor site plan amendment request to MNR (see comments above). Progressive rehabilitation of the side slopes can commence in the southwest part of the site once the aggregate has been removed.

Clearly self compliance does not work.

To this day, water continues to spill on to my property. I have made further complaints to no avail.

The following are some of my correspondence by email with Mr. Black, the aggregate inspector for the MNR. It took me over 6 months to get any action and when it happened, the action was not effective in stopping the problems.

Even when Zorra Township was in noncompliance they continued operating the pit. No penalties were assessed.

Below is more correspondence between Mr. Black and myself.

Mon 9/27/2010

Dear Chris Black

As you had suggested in a previous message below, I followed your advice and wish to inform you of the results. In my opinion the Township of Zorra has failed badly to monitor ground and surface water impacts. In fact the Township appears to be in contravention of its own site plan condition #11 stating: “There will be no surface discharge to Harrington Creek or the wetland”. It appears that they have been doing so since the clearing of the wetlands in early March 2010 for construction of their berm, haul road and settling pond. I feel I have been very patient about the silt and increased
water flow crossing the 31st Line into my property and into Harrington Creek, in particular, during heavy rain events since early March.

After a continuous torrent of water started to cross into my property about a month ago, along with silty, warm surface water literally reaching Harrington Creek, I became increasingly concerned. So I requested and obtained a meeting on site with Zorra Township representatives Aden Corcoran and Don MacLeod last Thursday to try to identify the issues and resolve them. The tour revealed many problems. Mr. Corcoran’s solution was that I put up with these problems indefinitely into the future as they were just temporary for a few years and Mr. MacLeod’s solution was that if I pursued further with my complaints, Zorra Township would put a municipal drain down across my property to Harrington Creek as it was in its power to do so.

On my property, a wide swath of trees have had their roots saturated in water since March and more recently had their roots continuously underwater and therefore, they will probably die. They are part of the PSWs. If the roots are not allowed to be drained back to normal conditions before winter, they will likely soon be dead. Therefore it is urgent that something be done.

The “gushing fresh” water and silty surface water flows through an unmarked culvert that had been previously dry most of the time except on occasional spring thaws. It is not shown on the site plans nor does it have a township marker for maintenance. Now almost all surface water from the site is being directed through this culvert onto my property. Silty surface water is washing down on both sides of the township’s haulage road berm, then crosses under the haul road culvert at the 31st Line road. All the pit culverts that were to direct the water into the settling pond appear to be plugged or not functioning. In addition there are three spring seepages along this surface water flow such that there is continuous water flowing into my property. This was certainly never the case previously since there is no existing channel at this location. As long as my family has owned this property (since 1944), my observations have been that surface water on lot 29 concession 1 was absorbed by its now removed vegetated wetlands and there were no springs except the one contained by Borman’s pond, the water of which was reabsorbed into the wetlands.
Thursday’s tour revealed that the gushing water was coming from the settling pond although no surface water was entering the pond. It is now flowing through Zorra’s wetlands to the 31st Line road, no doubt flooding the roots of their trees, possibly onto their own PSW. Apparently, the settling pond had filled with silt and Zorra cleaned out and expanded the pond about a month ago. In doing so, they must have breached the aquitard to intersect the aquifer which now can be seen as a bubbling caldron in their settling pond. This has become a major problem that should not have happened and the problem is compounded by the fact that the pond is supposed to be a settling pond. Further compounding the problem is that because of its low elevation of 335 m asl, this spring will likely expand and simultaneously lower the water table for other local domestic and natural hydrological features at higher elevations, while flooding my property downhill.

This is now a critically urgent matter needing attention, to minimize the damage, before winter arrives, for the vegetation, Harrington Creek and other hydrological features. I request that two of us to meet privately on site in this coming week, in the early afternoon of Wednesday Sept. 29th, Thursday, 30th, or Friday October 1st, with Thursday being the preferred date.

Thank you in advance for your prompt attention in this matter.

Sincerely,

Larry Jensen, PhD Geoscience
Lot 29 c 1, West Zorra
Tel: 905-274-8165

Cc: MNR Hon. Linda Jeffery,
    Mr. David Delaunay
    Ms. Carrie Hayward
    Mr. Ray Pichette
Dear Dr. Jensen;

Thank you for your email. I can confirm that the construction of the access road is occurring in accordance with the site plans of the licence for this property. With respect to your concerns about groundwater impacts resulting from construction of the access road, I note that you copied your comments to the licence holder, the Township of Zorra who are required to monitor ground and surface water conditions to ensure there are no negative impacts or disruptions.

If you have any further questions concerning the Aggregate Resources Act, please contact me.

Sincerely,
Chris Black

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Chris Black, MSc. (Pl)
Aggregate Resources Technical Specialist
Ministry of Natural Resources
615 John St. N
Aylmer, ON N5H 2S8
Hello Chris:

Last Friday, March 12, 2010, before the rain storm erupted, I viewed Zorra Township’s latest development initiative, on Lot 29, Con 1, (West Zorra), in Oxford County. I was appalled to see the destruction of the wetlands and the fact that Zorra Township must have breached the aquitard and now there appear to be cold water springs erupting from the underlying aquifer. Note, according to the London weather station records, there has been no significant precipitation for the past 3 weeks or more.

On March 12, 2010 I was surprised to see that work had stopped without the completion of this haulage road and berms before the March 15, deadline, as per site plan condition to avoid conflict with migratory bird nesting activities.
The culvert that Zorra Township put in parallel to the road under their new road entrance is running several litres/minute of crystal clear water most likely from a spring newly opened near the northeast corner of their property. Not only that, nearby, sections of the 31st Line road have become mucky suggesting that the Township also breached the aquitard under the road with their heavy equipment and loaded trucks. This is the 2nd occurrence of this happening along the 31st Line road. The original pioneer corduroy road base of cedar logs protecting the aquifer must have been disturbed. It is not strong enough to support such pounding loads.

It is easy to see where this new spring by the road starts to flow from out of the ground. The location happens to be about 3-4 m below the level of my spring up on the hill side (lot 29 c2) and below the level of nearby Borman’s pond. As well it is in line with another spring further south on my property east of the 31st line road. As Zorra’s new spring grows, it will affect the hydrology on three adjacent properties. This is not supposed to occur nor is the surface drainage pattern to be changed to establish permanent streams.

As I looked in from the 31st line with my zoom lens, I could photograph (video) clear water flowing at several locations in muck. A minor amount of it actually comes to the 31st line road along the new haul road so I am certain Zorro Township must have opened additional springs. Where is the water going? Back in 2004, UTRCA said there were no streams on the property in this area – now obviously there must be. I also noted mounds of brown clay – What was Zorra doing or trying to do?

If the weight of Zorra Township trucks and machinery are able to breach the aquifer, under the 31st line, just south of Borman’s gate, as has happened previously in front of Dr. Murkin's gate, I would estimate the likelihood of this being repeated along Zorra’s haul road crossing the wet lands to be very high. It will be dangerous to have heavy machinery using this road after the road is completed. The disruption and the continued disruption of the water table will affect the adjoining PSW on Zorra’s Property and on my property. In addition this will become thermally altered, silty surface water carrying road chemicals entering coldwater Harrington Creek.

Ground water being released at the base of the hill, is bound to lower the water table under the hill slated for excavation. I wondered if this might in actual fact, have been part of the Township consultants’ originally plan, when I analyzed the first set of site plans which showed that the haul road surface elevation was to be 3 m below the present land surface and hence below the local water table. I forwarded this information to MNR in 2005 pointing out that lowering the water table would increase the potential tonnage considerably for allowable excavation. MNR gave Zorra’s Consultants the heads
up to change the haul road plans after I provided proof that this was a flawed design for the haulage road in the site plans.

The sad part is - that this was a vibrant re established healthy, “significant” wetland, no doubt a PSW if it had been evaluated after 2000 rather than back 25- 30 years ago when it was recovering from being pasture land (Jeff Brick, UTRCA, per. com. 2004). It was capable of absorbing all run off. Now it is a disaster area for want of a better term, for the wildlife, flood protection and as a valuable primary source of water, thanks to Zorra Township and their consultants wish for short term gain, and to Oxford County, MNR, UTRCA and MOE failures to protect a most highly rated wetland in Oxford County’s 2006 Natural Heritage Study, especially when alternative entrances are available. Oxford County’s Ground Water Study showed that this location was a water discharge zone with a high vulnerability index. What is the point of doing these expensive studies only to be ignored by the very organizations that should be relying on them? How can a lower tier agency be allowed to ignore such significant information when making land-use decisions? What is the point in offering environmental protection through Oxford’s OP, Ontario’s PPS and UTRCA’s CA when these current applicable policies could all be by-passed even though rezoning occurred in late 2006.

I expect that Zorra Township, Oxford County, the Ministry of Natural Resources, Upper Thames Conservation Authority, and the Ministry of Environment will come forward with some answers as to how to resolve this new environmental concern on lot 29 c 1. (W.Z) Zorra Township.

Sincerely
Larry Jensen
Harrington Creek Eco Group.
Embroy, Ontario

After the inspection Oct 1st 2010 the following emails were exchanged.

Dr. Jensen:
I apologize for not responding to your email sooner; however, I was still working on the file and waiting for additional information. I hoped to have all information available prior to contacting you. I have now completed my review and can share the following with you.

A Notice of Inspection was issued to the Township of Zorra (Licensee) on September 29, 2010, following your complaint. A follow-up site inspection was performed and an amended Notice of Inspection issued November 1, 2010, which required the licensee to "...stop the spring from leaking into the sediment-settling (stormwater management) pond."

The licensee engaged the services of a geotechnical engineer from an independent firm to review the situation and prepare a report and recommendations. The geotechnical engineer has since attended the site and has prepared a report. Recommendations were identified by the report and presented to the licensee for implementation.

When the recommendations identified in the report are implemented, the licensee will have met their responsibilities under the Notice of Inspection and the Aggregate Resources Act (ARA) and the MNR will be satisfied that all appropriate steps have been taken.

As I had discussed with you, I have also advised Ministry of Environment, visited the site, taken both photos and videos of the area and have worked with the licensee - who has been cooperative and responsive to the concerns - to remedy the situation.

If you have any further questions, please contact myself or my supervisor, Sherry Pineo, at sherry.pineo@ontario.ca.

Chris Black

Chris Black, MSc. (Pl.)
Aggregate Resources Inspector
Hello Chris:

Thank you for your Oct 14th email update.

I wish to inform you that spring water is still flowing strongly from Zorra's settling pond and entering my property. I have monitored my property a few times during this October. Over a wide swath of my property, the roots of the trees remain underwater and water can be seen to flow in multiple shallow winding paths toward Harrington Creek. The PSW trees will likely die if the roots are not allowed to drain. See short video clip taken on Oct 24th.

I could/can observe from the 31st Line road that Zorra Township has done some work on the pond and on the haul road-side ditches. One of the truck drivers mentioned that there would be a closing of the haul road for an additional culvert.

Along 31st Line road, at the formerly dry culvert crossing into my property, on Zorra's side, one can see that most of the spring water is coming directly from the direction of Zorra's wetlands, and not from the haul road culvert in the opposite direction. Since this water has proven to be from their settling pond during my site visit with township staff, I am sure it must still originate from that source. On my side of the road, the water can be seen pouring into my property as shown on the video clip attached.

From the 31st line road, I could/can see where Zorra cleaned out the silt along the ditch between the haul road and berm and re-exposed the buried lower 1/3 of the fence at the gate to continue directing the surface run-off toward the 31st line and to their haul road culvert and hence across the road into my property. It appears largely the same as when the haul road and berm were first
constructed. Some silt still comes to the 31st line during light rains. When there is no rain, there is no obvious water flow. With more heavy rains and snow melting, I expect that silt will still soon build up behind the 8 inch straw barriers and culverts will become plugged as before so that silt will again freely wash toward the 31st line much as it did before Oct 1st. From the 31st line road, it appears the silt can originate from where the haul road cuts into the hill side farther back on Zorra's property.

Water is still flowing continuously through the haul road culvert at the 31st line, likely from a spring-source of water on the north side of the berm along the fence line. After flowing down to the north-east corner of Zorra's property, it flows along the roadside ditch to the haul road culvert and into my property, as it has since last April when Zorra constructed their berm. Before that no water flowed along the road and entered my property. In other words, permanent water and surface run-off water is now being channeled towards and directed into my wetlands by ditching, contrary to the site plan specifications and conditions. I see no change since first filing this complaint to you in September.

However, as mentioned, the main water source is spring water is coming directly from Zorra's forested property. Earlier in the month, the water flow volume from that direction did decrease considerably. But as of last week, it has regained much of its flow.

I am uncertain what Zorra Township did to cut the flow of water temporarily. From the 31st Line road, all that I can observe is fresh soil added to the west side of the settling pond. This appeared to be a building up the bank around the pond possibly in an attempt to cover in the spring that was observed at the west edge of the pond on my site visit with Zorra staff. Whether the height of the bank was extended around the whole pond could not be determined. Perhaps this was not done and the water is still flowing through the silt fence as well as at the location of broken concrete overflow. With water proof boots, one could easily compare the amount of water entering the pond vs. the water exiting beyond these overflow points. Of course, the colour of the water in the settling pond will indicate whether it has a spring source or if it is stagnant water accumulated from run-off.

As per your last email, I anticipate you will be visiting the site to inspect for compliance. I would appreciate you fully informing me as to why spring water continues to flood my property and what is to be done to correct the situation based on your investigation. If the water plus silt is stopped, it would remove Zorra Township's excuse to put a municipal drain through the PSW into Harrington Creek in contravention of the site plans Sheet 2, Phase A, Condition #11 -that There will be no off-site ditching/discharge into the wetlands or Harrington Creek.
Sincerely

Larry Jensen PhD (Geoscience)

From: Black, Chris (MNR) [mailto:Chris.Black@ontario.ca]
Sent: Thursday, October 14, 2010 3:54 PM
To: Larry Jensen
Cc: Pineo, Sherry (MNR)
Subject: RE: Recent complaint regarding Zorra Township, Aggregate Licence #602642

Dear Dr. Jensen;

Thank you for your email.

To answer your question, the Aggregate Resources Act (ARA) licence held by Zorra Township is for an above-water aggregate operation; therefore, any springs that have been opened as a result of excavation or operation of the pit will be sealed. I have advised the Township of this and will continue to monitor the situation to ensure that should an encounter with the water table occur, it is quickly rectified.

Regarding your comments about the possibility a municipal drain across 31st Line, this is outside of the ARA licenced area and falls under the Drainage Act, R.S.O. 1990. Under the ARA, I will continue to ensure that the conditions of the site plans are maintained in regards to de-watering that may occur as a result of encountering the water table.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,

Chris Black

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Chris Black, MSc. (Pl)
Aggregate Resources Technical Specialist
Ministry of Natural Resources
615 John St. N
Aylmer, ON N5H 2S8
519.773.4747
chris.black@ontario.ca
From: Larry Jensen [mailto:l.s.jensen@rogers.com]
Sent: October 8, 2010 10:39 AM
To: Black, Chris (MNR)
Cc: Selby, Cale (MNR)
Subject: RE: Recent complaint regarding Zorra Township, Aggregate Licence #602642

Hello Chris:

Thank you for your Oct 1st update. Your email and its contents will remain confidential (for the time being).

The issues that you mention as being not in compliance with the site plans, were observed during my site visit with Mr. Corcoran and Mr. MacLeod. Instead of the berms being a major source of sediment, much of the sediment in the ditches appears to be from farther back on site, in particular from the hill cuts for the haulage road and from the hill itself where surface water is now funneled between the berm and Borman's property. During heavy rains, as the water comes off the hill, it meets and erodes the berm as it becomes focused toward the 31st line road and ends up crossing the road into my property. Before, all this water and water flowing off Borman's property would spread out more or less evenly into the wetlands and be absorbed long before reaching the low shoulder of the 31st line road. The grassy shoulder was walkable 1 to 2 meters off the road in Oxford shoes all spring, summer and autumn except toward Harrington Creek (farther down the road). Now there are bull rushes. Perhaps, all this water can be redirected to the settling pond. However I doubt that the settling pond has the capacity to take all this water so as to allow the water to be absorbed by the diminished wetlands and associated PSW. It will spill over the banks of the pond, perhaps remaining a flowing pond.

The UTRCA in the early spring of 2004, made a detailed examination for flowing water in the wetlands for the planned haul road. They noted only some seepage from the hill back toward the hill. Their hope was that there would be flowing water to advise Zorra to change their planned haul road route. My spring-time photos of the culvert crossing the 31st line road, reveals no water coming to it and flowing through it prior to this summer. However water did start flowing through it when Zorra built their fence and inserted their culvert at their entrance last March. Water started to flow from the ground near the corner of fence post as a result of Zorra's workmen encountering the aquifer and it has been flowing ever since.
Subsequently the silty water flow increased when the wetlands were bulldozed and flowing water could be seen from the road and Borman's property. The flow was originating from a major source(s) about as far back as big spruce tree along the fence where the berm now exists. Without prompting during my tour, Mr. MacLeod mentioned fill being brought in and very heavy machinery used to pack down the ground under the berm. I quickly realized the purpose must have been to seal the water spring(s) they opened. During our walk further along Borman's property line, we saw water still flowing from the ground, bypassing the culvert and flowing as a small stream down toward the 31st line to join the water flowing at the corner post. This source of water will likely increase as water springs do until they reach an equilibrium with the water table by lowering the source water table. Will measures be taken to seal this spring while it is still relatively small and is still possible to accomplish? I notice a similar spot of seeping water in the ditch between the berm and haul road near the 2nd culvert which, itself, was bone dry. Did Zorra's report mention their encounter with the aquifer? I reported it to you.

The hydrology of the area suggests that when Zorra manages to correct the strong spring in their settling pond, these other small recognized springs at slightly higher elevation will take over draining the water table and grow to release a high volume of water into the ditches and culverts feeding the settling ponds. Thus the problem of high volumes of water flowing into my property, possibly carrying sediments during severe rain events, will be repeated.

According to the site plans no water is actually supposed to be directed via ditching toward the wetlands and Harrington Creek. All surface water is supposed to be directed to the settling pond to allow it to soak into the ground as before so as not to disturb the drainage pattern. All the flowing water from the front corner of Zorra's property should be redirected back to their settling pond along the north side of the road and through the culvert. The culvert crossing the 31st line road into my property should revert to being dry 99.9% of the time. The roots of the trees on my property are not used to being saturated with water.

I'm assuming that you will be ensuring full compliance with the site plans and that Zorra's PSW's are better protected under your authority than they otherwise would be, as you stated in conversation, if they were not included in the area of license. Also, full compliance must include preventing the township from pushing any municipal drains through the PSW's on their and my property as threatened, as the site plan conditions include no dumping of water off site. I would appreciate confirmation of this so that my family & I can rest assured that our efforts in preserving our wetland property over the past 65 years will not have been in vain.

Yours truly,

Larry Jensen, PhD Geoscience
Dear Dr. Jensen,

Further to your recent complaint regarding the Zorra Township aggregate pit on 31st Line (the "Robinson Pit"), I have completed my review and inspection and can now provide you with my comments:

A review of the site plans was conducted regarding the matters you brought to my attention in your complaint. This was followed up with a site inspection on September 29, 2010. During the inspection, several items were identified that were not in compliance with the site plans. These included a spring located within the sediment-settling pond; erosion in some spots on the acoustic berms; culverts and drainage swales that had been filled with silt and sediment; and the lack of a second culvert under the haul road as required on the site plans.

As a result of this inspection, the Township has been ordered to take remedial actions to rectify the above matters by no later than the end of this month. I have stressed to the Township the urgency in addressing these issues at the earliest opportunity. I will continue to monitor this situation to ensure that these remedial actions are completed on time.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,

Chris Black
Most recent correspondence with Mr. Black. Water continues to flow onto my property from the spring fed settling pond. Here is my final complaint and I have to let the water do its damage to my property.

Tue 6/7/2011 11:14 AM
Dear Dr. Jensen;

I have completed my review of the file for the Township of Zorra’s aggregate pit, Licence #602642 and have also conducted site visits with the licensee. Based on the file review and site inspections, as well as the inspections and subsequent reports of independent hydrogeologists and geotechnical engineers, I am confident that this licensed site is in compliance with the Aggregate Resources Act (ARA) and conditions of their site plans. The settlement pond is functioning properly and as it was designed; the remedial actions to rectify seepage to ground surface have been completed successfully and in accordance with the recommendations of the geotechnical engineer; and it is considered that the global hydrogeology of the site has not been altered due to the reconstruction of the west bank of the settling pond.

The Township of Zorra has demonstrated that they are in compliance with their site plans and conditions of their licence and MNR is satisfied in that regard.

I understand that the Municipality of the Township of Zorra is willing to share their report with you and discuss your concerns further, should you be interested. If so, please contact Mr. Aden Corcoran by telephone at (519) 485-2490 ext 227, or by email at acorcoran@zorra.on.ca.

Sincerely,
Chris Black
From: Larry Jensen [mailto:l.s.jensen@rogers.com]
Sent: April 4, 2011 11:30 AM
To: Black, Chris (MNR)
Cc: Pineo, Sherry (MNR)
Subject: Zorra Township aggregate pit settling pond still gushing water into Jensen Bush

Chris Black, MSc.
(PI)
Aggregate
Resources Technical Specialist
Ministry of Natural Resources
615 John St. N

Dear Chris:

I regret to inform you that Zorra Township’s settling pond must be still over-flowing with spring water which is flooding across the road into my property. It has been doing so nonstop all winter. I have monitored the water crossing the road each week since November with photographic documentation.

In a response letter from the MNR Minister’s Office addressed to my wife, it states that you informed Hon. Minister Linda Jeffrey that all non-compliance issues raised, had been successfully resolved. How could this be true? In addition, I have just received documentation that you informed Zorra Township that they had corrected their non-compliance issues based on your visit to the site Jan 6th 2011. This also contradicts my observations.

Presently, the roots of mature trees in my PSW are being drowned in flowing water since last May when water started to accumulate on my side of the road faster than could be absorbed by the ground. This began when Zorra Township’s gravel pit operators breached the water aquitard while constructing the haul road and berms. I immediately made a complaint to you but to my knowledge, your email response Tuesday Mar. 16, 2010 quoted below indicated that you were dismissing this noncompliance:

“I can confirm that the construction of the access road is occurring in accordance with the site plans of the licence for this property.”
Yet, one could see water gushing from the ground during the construction phase from various vantage points from outside the property.

When visiting on site, on September 2010, Mr. MacLeod stated to me that, during the construction phase, they used extra heavy equipment to pack down the soil in order to stop the water seepage, further supporting the fact that construction of the access road was not in accordance with the site plans. Subsequently, time has shown that the use of heavy packing equipment was only of limited success. Water from this direction continues to flow toward the 31st Line and then channeled onto my property in quantities that continuously soak my side of the road. This was never the case prior to the spring of 2010 when the wetland absorbed all surface water. Now there is ongoing spring water discharge flowing in this part of the former wetlands on Zorra Township’s property. Even though I have repeatedly brought this to your attention, you have never addressed this. Thus the construction of the access road and berm on top of the wetland was not and is not in compliance. Spring water continuously flows along the berm to the 31st line, under Zorra Township’s haul road culvert and then across the road.

It appears that Zorra Township hit another major spring when the settling pond was dredged in August 2010. Water combined with silt came gushing into my property in greater than ever quantities such that I requested a tour with Mr. Corcoran. He and Mr. MacLeod made clear that I should tolerate this situation, adding that the Township could use the Drainage Act to move the water directly into Harrington Creek across my property against my will. Such additional digging in the PSW wetlands would pose a grave danger to the underlying aquifer, as has already been experienced.

Therefore, in September 2010 I again turned to you with my concerns. However, only after I complained to the MOE via the Spills Line did I seem to finally to get a response from you.

Granted you did finally acknowledge that Zorra Township was in noncompliance concerning their settling pond and instructed them to fix the problem along with other issues by October 31st, 2010. However, their first attempt did not seem have success by Oct 31st. I waited on a report from you concerning their efforts. It never materialized. My own observations made me fully aware that their efforts did not stop the water. Then on Dec. 17, I noticed a large scoop shovel working on the pond. I continued to monitor the spring water volumes crossing into my property and found the volumes remained strong and they have continued to be so, until the present time.

It was reported by neighbours that an MNR vehicle visited Zorra Township’s gravel pit property on January 6th, 2011. Although my property was being affected by Zorra Township’s problem, your office did not inform me of your visit or the results of your visit. Instead, I have learned about this via a recent letter from the Minister addressed to someone else and from a copy of your actual report recently sent to me by Zorra township, that on January 6th, you deemed all problems had been rectified. If you had informed me, I could have responded that it remained a non-compliant problem along with photographic proof of spring water activity.

Possibly, on Jan 6th, it was an inappropriate time to do a proper inspection after a heavy snow fall? It would have been difficult to assess spring water activity as a temporary snow bridge will sometimes form over a spring-fed stream during a heavy snow fall. However, the snow bridge is the first to melt (usually at subfreezing temperatures) revealing the stream path?. This stream activity, I was able to observe along the 31st Line road during January, February and March, leading back to the settling pond, as well as the spring water emanating from the bank on the west side of Zorra Township’s flowing “setting pond”.

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I anticipate that you will promptly investigate this on-going non-compliance issue before the spring growing season and most importantly, keep me informed as this is being corrected as it is critical to my property.

It bothers me that if you actually did think Zorra Township’s continued breaching of the water table had been corrected, that you might not have double checked for spring activity or that you failed to inform me personally of your conclusions since I was the complainant.

I should point out, that Zorra Township’s current settling pond can no longer be called a “settling pond” as it was when first built. According to the site plans probably it did not have a special overflow spill way nor was water to fill it to the very top of the enclosing banks at any point. With water at the top and flowing out the rock constructed spill way, this pond no longer can be considered a settling pond. It has no capacity to store any silty surface storm water and allow all such water to settle silt and infiltrate the ground in a poor effort to imitate the destroyed wetlands. This would be in contravention to the site plans and thus a non-compliance issue and it represents a significant part of my complaint.

Last autumn on the telephone, you suggested that if I was not satisfied with your services, I should telephone your supervisor, Ms. Sherry Pineo. Instead of immediately doing so, I decided to first give you further opportunity to correct all Zorra Township’s non-compliance issues which include spring water and silt from multiple directions. If the issues are not resolved promptly, I will feel obliged to present this well-documented complaint to Ms Pineo with additional documentation.

I hope that such action would not be necessary and that you will take action and keep me timely informed. If you have questions, please do not hesitate to contact me at: 905-274-8165.

Regards,

Larry Jensen, Ph.D. Geosciences,

Minnewawa Rd.

Ontario,

L5G1C2
## 2010 Compliance Assessment Summary

**Assessment Date:** July 26/10  
**Pit Name:** Robinson  
**License #:** 602642

See attached scan for locations of compliance issues noted in:

<table>
<thead>
<tr>
<th>Location</th>
<th>Photo(s)</th>
<th>Status</th>
<th>Item</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>6543, 6546</td>
<td>2010</td>
<td>A1 - Boundaries</td>
<td>Sections of the unframed east and south boundaries are demarcated by Township &quot;No Trespassing&quot; signs rather than painted marker posts every 40 m as per the override notice. Suggest that the minor site plan amendment be requested.</td>
</tr>
<tr>
<td>2</td>
<td>6481, 6488</td>
<td>2010</td>
<td>844 - Other</td>
<td>As discussed on site, the settling pond/work-plan on the south side of the access road is functioning at the present time but lacks storage capacity because it has filled in with sediment, to be increased in size and riprap added to inflow and outflow.</td>
</tr>
<tr>
<td>3</td>
<td>6474, 6558</td>
<td>2010</td>
<td>16 - Bemis</td>
<td>Acoustic berm A and the internal berm have been graded and topsoiled but require seeding to establish a vegetative cover and prevent soil erosion. The entire portion of Berm A was measured to be 20 ft (6.1 m) above the grade of the access road but was slightly lower at the ends. Tracks using the access road were completely below the top of the berm.</td>
</tr>
<tr>
<td>4</td>
<td>6529</td>
<td>2010</td>
<td>D34 - Vegetation</td>
<td>The slopes of the road cut where the access road enters Area 2 should also be seeded to prevent soil erosion and vegetate the slope. Did not attend access road should be vegetated and/or have rock check chats installed, where required.</td>
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<tr>
<td>5</td>
<td>6491, 6500</td>
<td>2010</td>
<td>16 - Tree Screen</td>
<td>A variety of trees and shrubs have been planted in the 10-m setback adjacent to the Bremo property and the western 300 m of the wildlife corridor. It was estimated that about 85-90% of the trees planted have survived this estimate.</td>
</tr>
<tr>
<td>6</td>
<td>6508</td>
<td>2010</td>
<td>16 - Tree Screen</td>
<td>Note Eastern part of proposed wildlife corridor surrounding woodland 1B and to the east will have to be planted during Phase A operations in summer.</td>
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<tr>
<td>7</td>
<td>6505</td>
<td>2010</td>
<td>Potential safety concerns</td>
<td>Dead tree with hanging branch noted along north part of west boundary; can be used as wildlife corridor.</td>
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<tr>
<td>8</td>
<td>6506</td>
<td>2010</td>
<td>A2 - Gates</td>
<td>Gates recently installed at opening in west fence for farm equipment access not shown on plans; can be addressed in minor site plan amendment requests.</td>
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<tr>
<td>9</td>
<td>6511</td>
<td>2010</td>
<td>C10 - Overburden seeded</td>
<td>Large stockpile berms of overburden material have been placed within the west setback area, and is not shown on the site plans; the berms should be graded and seeded with a cover crop to prevent soil erosion; temporary berms can be addressed in minor site plan amendment.</td>
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<tr>
<td>10</td>
<td>6517, 6522</td>
<td>2010</td>
<td>C18 - Excavation faces</td>
<td>Excavation face height in the northeastern area was measured to be about 6.7 m which is higher than specified on the site plans and is above the max reach of the leader in the pit as allowed by MOE regulations. As discussed, faces will have to work in benches, extend down with a dozer from above or by using larger excavation equipment.</td>
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2010 Compliance Assessment Summary

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Comments: The Township has done an excellent job in the site preparation work (access road and bench construction, fencing and gates, marking setbacks, tree planting, installing sediment controls, etc.) in a short time frame since the license was issued earlier this year. There was little evidence of erosion or sedimentation problems on site even after the heavy rainfall events last week. As discussed, there are a few site conditions that differ from what is shown on the site plans and should be addressed through a minor site plan amendment request to MNR (see comments above). Progressive rehabilitation of the side slopes can commence in the southwest part of the site once the aggregate has been removed.