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April 21, 2011

Delivered by Hand

Mr. Craig Laing
THE MINISTRY OF NATURAL RESOURCES
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THE HIGHLAND COMPANIES
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THE ENVIRONMENTAL COMMISSIONER
1075 Bay Street, Suite 605
Toronto, ON M5S 2B1

Dear Sirs:

Re: Proposal by The Highland Companies ("Application") to develop a Mega Quarry in Melancthon Township, County of Dufferin

Please accept this correspondence as my "letter of objection" noting concerns relating to the above-captioned matter. My comments and observations will be briefly set out in relation to the following issues:

1. Short time frame permitted in order to respond to The Highland Companies' Application;
2. Transportation issues;
3. Corporate issues;
4. Issues pertaining to water and watersheds;
5. Water management;
6. Agriculture;

7. Property values;
8. Environmental concerns;
9. Tourism;
10. Impact of the Rockford Quarry decision;
11. Issues relating to the Holland Marsh and Milton Quarry dewatering systems;

1. Short time frame permitted in order to respond to The Highland Companies' Application

The Highland Companies ("THC") submitted an Application which was in excess of 3,100 pages. Responses to this lengthy Application had to be submitted within 45 days. I submit, respectfully, that such a process defies common sense, reasonableness, and every sense of fair play. Responsible officials of government agencies will review and assess the lengthy representations compiled by THC, which are based on close to a decade of work and preparation. This is countered by replies from those in opposition to the proposal of THC based on a 45-day window in which to prepare and submit representations. The process is flawed. This is not how our system works or is supposed to work. No doubt a representative of THC will say "you knew what was going on". Such a position is equally flawed. Nobody who is opposing the Application knew of a more than 3,000-page report. As well, it is not reasonable to expect anyone to digest and fully understand the nuances and substance of THC's Application. There are many issues in the Application which require detailed analyses to be conducted by experts in given areas of endeavour. A 45-day window to prepare responses simply does not permit such analyses to be performed properly and thoroughly.

I am respectfully requesting the right to be permitted to modify and amend the positions which are set out in this correspondence, based on not only further analyses and considerations on my part, but also based on further responses and positions which will no doubt be put forward by THC.

2. Transportation Issues

I have reviewed the issue of transportation as dealt with in the Application. I find it to be theoretical and not based on reality of what will happen with the movement of trucks from Melancthon Township proceeding in a southerly direction and their return. The positions advanced in the Application are entirely unsatisfactory.

There are estimates of approximately 3,600 trucks departing, fully loaded with aggregates, from the quarry and proceeding in a southerly direction towards Toronto, and 3,600 trucks, empty, heading back to the quarry – these numbers are on a daily basis.

The following information is requested:

- (a) Which roads and highways are to be used in moving aggregates from Melancthon Township in a southerly direction towards Toronto, and which roads and highways are to be used in relation to empty trucks returning to Melancthon Township?
- (b) Have all Towns, Villages and Municipalities through which trucks will be travelling, been consulted in relation to the anticipated volume of truck traffic? If consultations have taken place, please advise when they took place and who was involved in the consultative process?
- (c) Have the Ontario Provincial Police and all municipal police forces between Melancthon Township and southern destinations been consulted in relation to the anticipated truck traffic? If consultations have taken place, please advise when they took place, and who was involved in the consultative process.
- (d) Have all schools which are on any of the roads and highways anticipated to be used been consulted in relation to the anticipated truck traffic? Have such consultations also involved the issues pertaining to school buses which will be travelling in the morning and afternoon hours? Specifically, has the issue of school buses stopping to pick children up in the morning and dropping children off in the afternoon been carefully reviewed with the various schools which may be impacted? If such consultations have taken place, please advise when they took place and who was involved in the consultative process.
- (e) These are issues falling directly under *The Aggregate Resources Act*, Section 12(1)(h). These issues have not been adequately addressed in the Application.

3. Corporate Issues

The Application is filed by "The Highland Companies". THC has mailing addresses of Box 377 in Shelburne, Ontario, as well as an additional post office box in Hamilton, Ontario. Furthermore, THC appears to be a wholly owned subsidiary of 3191574, a Nova Scotia corporation. The common thread between THC and the Nova Scotia corporation is a Mr. John Lowndes. It appears that THC and 3191574 Nova Scotia company are what may be referred to as "shell companies".

Information is requested on the following points:

- (a) What expertise in aggregate mining and the development of quarries does THC have?
- (b) What expertise in aggregate mining and the development of quarries does 3191574 Nova Scotia company have?

- (c) Other than having extensive reports compiled by consultants, what level of expertise does THC possess in order to become the operator of what will be the largest quarry in North America?
- (d) What is the relationship between THC and 3191574 Nova Scotia company?
- (e) What is the relationship between THC and the Baupost Group in Massachusetts?
- (f) What is the relationship between 3191574 Nova Scotia company and the Baupost Group in Massachusetts?
- (g) If the Application is granted, is it the intent of THC and/or 3191574 Nova Scotia company to "flip" the license to operate the quarry to a corporation, Canadian, or foreign, to operate the aggregate mine? Specific information is requested on this point.
- (h) Has a business plan been prepared by THC and/or 3191574 Nova Scotia company in relation to the operation of the proposed aggregate mine in Melancthon Township?
- (i) Has a business plan been prepared by the Baupost Group in relation to the operation of the proposed aggregate mine in Melancthon Township?

4. Issues pertaining to Water and Watersheds

The issue of water and how it is proposed to be dealt with causes me grave concern. The theoretical, simple and broad statements made by the consultants retained by THC as set out in the submitted hydrogeologic report do not deal with the realities of what is to occur in Melancthon Township. The size and depth of the proposed excavation is of such magnitude that it has not been tested anywhere in the world. The location of the proposed aggregate mine in a complex headwaters area, with complex karst conditions, is dealt with in a very cavalier manner. It must be remembered that THC appears to have no background or expertise in the development and running of quarries, and its consultants have been brought in to produce reports that are in support of the proposed Application. It further appears that the consultants are venturing into embryonic areas when dealing with water issues in Melancthon Township and surrounding areas.

Specific information is requested on the following points:

- (a) What will be the effect on the quantity and quality of water in the Grand, Saugeen and Nottawasaga watersheds?
- (b) What will be the effect on the quantity and quality of water in the Mad, Pine, Boyne and Noisy River sub-watershed systems?
- (c) There are a number of brooks and streams in the area that do not have specific names but are known to the local population. Such unnamed brooks and streams have not

been dealt with in the Application. If the applicant is interested in ascertaining the proximity of such unnamed brooks and streams, then I would invite them to request information on the location of such unnamed brooks and streams and I will endeavour to assist them in this regard. In any event, such unnamed brooks and streams must be assessed in connection with the overall assessment of the Application. In some studies that have been conducted, such unnamed brooks and streams have been referred to as the "Campbell Brook", the "Honeywood Brook" and the "Marshall Brook".

- (d) Based on the rather nebulous assurances pertaining to water, the watersheds of the area, and the impact on the affected aquifer, I firmly believe that it is not improper to request THC to demonstrate, with specific information and assurance, that what is proposed in the mega mine in Melancthon Township will not have a negative and detrimental impact on the water supply which originates in the Melancthon Township area. What assurances does THC offer that its proposed water management system will work? What plans and contingency considerations does THC offer if its plans prove to be faulty – that is, what is the back-up position of THC on this point?
- (e) Will THC give assurances that the water tables and aquifers within a 100 km radius of the open pit mine will not be negatively impacted?
- (f) These issues fall under the *Aggregate Resources Act*, Section 12(i)(e). These issues have not been adequately addressed in the Application.

5. Water Management

It is common knowledge which has been acknowledged by THC that the proposed quarry would have a daily movement of approximately 600 million litres of water. To put this matter in perspective, this means that 600 million litres of water a day, entering the pit, will have to be managed in perpetuity. THC has suggested that 16 pumps will be running 24 hours a day, 7 days a week, in order to control this amount of daily water movement.

A number of questions require specific answers:

- (a) 16 pumps working 24/7 – please advise what size of pumps are to be used.
- (b) Please advise the required wattage, on a daily basis, required to run such 16 pumps.
- (c) What back-up system is proposed by THC, should there be a power failure, in order to keep the 16 pumps running? I would assume that there will have to be generators in place to take over immediately in case of a power failure. If my assumption is correct, please advise on the number of generators which will be in place, and the size of such generators

- (d) If we speculate that THC may be successful in its Application, and the mining operation goes ahead, what are the plans of THC to run the pumps after the mining operations have been completed? The pumping of 600 million litres of water a day will have to be continued in perpetuity. What financial assurances is THC providing to the Province of Ontario (on its own behalf, and completely and irrevocably binding on any entity to which the business of TCH and any licenses for aggregate mining it may obtain, be transferred or disposed of – also See Sections 5(g) above in this regard) to cover the costs of running the pumps, maintaining the pumps, and maintaining back-up systems in perpetuity? It is respectfully submitted that it would be entirely inequitable to foist the costs of continuing to run and maintain pumping systems onto the Province or the population, in particular, of residents in Melancthon Township.

6. Agriculture

It is an accepted fact that should the proposed quarry be approved, a vast amount of the best agricultural land in Ontario will be forever destroyed. Everyone is aware that the Honeywood loam in Melancthon Township may well be the finest agricultural land of the province. This land will be replaced by a mega open pit. I am certain that the socio-economic implications of destruction of valuable arable land to be replaced by an industrial enterprise will be adequately addressed in other communications of opposition to THC's Application. In any event, the ramifications of THC's proposal on the destruction of valuable agricultural land, to be replaced by a major commercial enterprise falls under the purview of the *Aggregate Resources Act*, Section 121(f) and the *Environmental Assessment Act*, Sections 2 and 3(b).

7. Property Values

From numerous conversations I have had with local residents in Melancthon Township, it is very clear, and undisputable, that THC purchased land, in many instances, under what appear to be false pretenses. Purchasers were under the impression that land was being purchased to create a very large potato growing organization. There was never mention of the development of a massive aggregate mining pit.

It is indisputable that property values in Melancthon Township, anywhere in proximity to what THC is proposing, will be drastically reduced. Conversely, such property value reduction will have a negative impact on tax revenue for the municipalities affected. I am attaching to this correspondence as Appendix "A", correspondence from Donald B. Jack, a broker of record with Windchime Realty Ltd. in Flesherton, Ontario. This correspondence speaks for itself.

There have been many discussions pertaining to a railroad line acquisition by THC. The proposed rail line, long abandoned, would create more difficulties for the entire area. Again, I have conferred with persons who have in good faith bought properties at or nearby the abandoned railroad lines. It must be understood that these abandoned railroad lines have had all the rails removed and to a large degree during winter, what used to be rail lines, are now being used as trails for snowmobiling.

Should a potential railroad line be restructured, all of the properties alongside the proposed rail line will be drastically diminished in their value. Persons who did purchase such land in good faith will be affected by trains carrying heavy aggregates towards the Owen Sound area. What remedial steps is THC proposing in relation to compensating such persons for the land which they acquired in order to have quiet enjoyment of their property which now will become an impossibility?

I believe that THC needs to give a full and complete explanation of its intentions in this regard.

As well, THC's proposal to purchase the rail bed leading to Owen Sound raises an entirely different issue. Unless I am seriously mistaken, there is no pressing need for aggregates in the Owen Sound area. I am requesting specific information from THC to advise whether aggregates proposed to be shipped to Owen Sound are intended for use in Ontario, or whether they are to be shipped to foreign destinations as part of a well-structured entrepreneurial venture orchestrated by the Baupost Group. This matter has not been questioned or raised, to my knowledge, and accordingly, specific information is requested.

8. Environmental Concerns

Although the instant response is directed primarily to the Ministry of Natural Resources, in my respectful submission, the Environmental Commissioner has an obligation to investigate matters which clearly fall under the purview of the *Environmental Assessment Act*. In view of time constraints imposed by virtue of the short time frame for responding to the Application, I will simply list a number of areas which in my respectful submission are specific areas falling under the purview of the *Environmental Assessment Act*.

- (a) The issue of greenhouse gases created by 7,200 trucks travelling between Melancthon Township and southern destinations in the Toronto area. To my knowledge, no studies have been done in this regard and attention has not been paid to the impact of such a huge increase of vehicles spewing fumes into our environment.
- (b) THC have to date cut down a vast amount of trees in Melancthon Township. This is indisputable. Some would argue that by cutting down a very large number of trees to date, THC have already, *de facto*, embarked on a premature exercise in preparing the land (cutting trees and destroying buildings) for the proposed open pit quarry. In my respectful submission, this is not only offensive to the *Environmental Assessment Act*, but also flies in the face of Section 12(1)(a) of the *Aggregate Resources Act*.
- (c) The issue of dust emanating from the mining operations has very definitely caused concern. I have reviewed the preliminary submissions by THC in this regard and am satisfied that they do not in any serious manner deal with the potential of dust coming from this massive open pit, and assessing how far the dust will travel and what its impact will be when reaching the ground. It must be appreciated that by digging the open pit, and creating the berms around it, the entire topography of the land is being changed. When one now adds the fact of the windmills in the area, no definitive

analysis has been conducted by THC to show how far the dust will travel, and what the impact such dust will have in relation to ongoing farming operations. One thing is for certain, if such dust travels during the wintertime, it will settle on snow and will in the springtime, be directly absorbed into the soil and related rivers, streams and brooks. In the summertime, it will land on growing crops. THC has an obligation to provide specific information on the impact of such aggregate dust and what the overall implications will be on ongoing agricultural operations. Specifically, one of the areas of concern relates to the impact of the pH level in the ground. Again, specific information and analysis on this matter is requested.

- (d) I have conferred with local residents who have reviewed revisions of THC's Application as it pertains to wildlife. The persons I have spoken to are completely mystified as to the conclusions arrived at by THC on the impact of the quarry on wildlife. Already, with THC's proceeding to cut very many trees on the land it has acquired, there is a noticeable reduction in wildlife. Suffice it to say, I will not deal with this matter in more detail at this point in time, but will make further submissions if permitted pursuant to further consultations with local residents.
- (e) It is respectfully submitted that the above issues not only fall under the purview of the *Environmental Assessment Act*, but also under the *Aggregate Resources Act*, Section 12(1)(a).

9. Tourism

The location of the proposed quarry is off County Road 124. This road is a heavily used road by persons travelling from the Toronto area in a northerly direction towards Collingwood, Wasaga Beach, and other tourist areas. Have there been consultations between THC and the Municipalities north of Melancthon Township in relation to the impact of increased truck traffic on tourists traveling north on County Road 124? In particular, has thought been given to the winter traffic for persons traveling to Collingwood to ski? I am completely satisfied that County Road 124 is one of the principal roads used for skiers driving to Collingwood. Being aware of the winter driving conditions of the area, I must question whether consideration has been given by THC to the impact of increased truck traffic in relation to persons who have, for decades, used County Road 124 and its predecessor in order to travel to recreational facilities. Specific information in this regard is requested. If consultations have taken place, when did they take place and who was involved in the consultative process?

Shelburne is directly affected by the Application. Have consultations taken place between Municipal officers of Shelburne and representatives of THC in relation to the impact truck traffic will have on, for example, the Canadian Open Old Time Fiddle Championship, which is a tradition going back decades? Please advise whether such consultations have taken place, when they took place, and who was involved in the consultative process.

10. Effect of the Rockfort Quarry decision (OMB Decision Nos. PL 000643 and PL 60448)

The decision of the Ontario Municipal Board pertaining to the James Dick Construction Limited application for a quarry in the Town of Caledon has a very relevant quote which is hereafter set out:

The PPS is relevant to this matter; more specifically Policy 2.3, Natural Heritage. It was agreed by all parties that "natural heritage features and areas" as defined by the PPS are located on lands in the vicinity of the subject property such that the subject property is "adjacent lands" for the purposes of the PPS. Further, the development of an aggregate extraction operation constitutes, all agree, a "development" and/or a "site alteration" for the purposes of the PPS.

Policy 2.3 provides "development and site alteration may be permitted on adjacent land to (natural heritage features and areas) if it has been demonstrated that there will be no negative impacts on the natural features or on the ecological functions for which the area is identified". The Board finds that this means that a proponent of development has the onus of demonstrating no negative impact. Objectors to a development need not demonstrate that there will be negative impact.

I specifically draw your attention to the reference of the OMB Policy 2.3

11. Reference to the Alleged Similarities to the Holland Marsh dewatering system and the Milton Quarry dewatering system

I respectfully request permission to further review the implications of the Holland Marsh and Milton Quarry dewatering systems.

Since the Application relies heavily on a proposed dewatering system for the Melancthon Quarry, I wish to further review and analyze the applicability of Holland Marsh and Milton to the Melancthon Township situation. Time simply has not permitted for a detailed analysis in this regard.

The above represents my preliminary observations in relation to the application. Based on the information that is available at the present time, I would strongly urge the Minister of Natural Resources to refuse to grant a license to THC to operate a quarry in Melancthon Township. Should the Minister not see fit to deny the granting of a license, then a hearing must be ordered before the Ontario Municipal Board in order to consider all relevant and related matters.

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All of which is respectfully submitted.

Yours truly,

Frederick R. von Veh

FRV/mdlr