

THE POSITION OF THE APPELLANT:

At the outset of the hearing Mr. Currie, counsel for the Rural Municipality of Rosser, stated that the parties had agreed and consented to the terms and conditions related to the operation of the Lilyfield Quarry. He further stated that the only issue which the Municipality had related to the traffic concerns of P.R. 236 and PTH 6. Evidence was called from the Ministry of Infrastructure (Karen Toews and Mandip Sainbhi) who provided evidence to state that this intersection was due for improvement. The evidence of the M.I. representatives and Dillon Consulting Report Exhibit No. 4 deals with existing and proposed traffic volume at 236 and 6. Clearly the 240 vehicle movement per day will not create a traffic concern from the development, a possible increase of up to 50% more than 240 trucks per day can be accommodated by the existing proposed quarry development without any impact to the intersection.

THE REPORT (*Dillon Consulting Ltd. – Lilyfield Quarry Traffic Impact Study – Final Report Dated January 2020, Section 6: Conclusions and Recommendations*)RECOMMENDS THAT THE PROPOSED QUARRY CAN EXIST WITHOUT ANY TRAFFIC IMPROVEMENT AND DOES NOT RESULT IN ANY TRAFFIC CONCERN WHICH DO NOT ALREADY EXIST.

The designation of timing of the improvement had not yet been set and that capital has not yet been dedicated to the project. The appellant is willing to work with the Municipality and Manitoba Infrastructure to assist with the improvements on PTH 6 and PR 236.

WHILE THE INTERSECTION ON PR 236 AND PTH # 6 IS NOT DIRECTLY PART OF THIS APPLICATION IT MUST BE APPARENT THAT NONE OF THE APPELLANT, THE RURAL MUNICIPALITY OF ROSSER AND THE MUNICIPAL BOARD OF MANITOBA HAVE JURISDICTION WITH RESPECT TO THIS MATTER. THIS MATTER IS TOTALLY WITHIN THE JURISDICTION OF THE MINISTRY OF INFRASTRUCTURE OF THE PROVINCE OF MANITOBA.

The objectors to this appeal and their locations (map attached) are:

Item	Description	Distance from Crusher Location NE 1/4
1	Thevenot Family	1,100 meters
2	Sheila Monchak	1,200 meters
3	Karen Kaplen (Land Owner), Brynn and David Kaplen	750 meters
4	Florence McCoy	875 meters
5	Mr. and Mrs. Gough (Property was purchased after the 1 st and 2 nd Quarry Application)	830 meters
6	Lynn Letkeman	870 meters
7	Yvette Mozol (Not a land owner)	1,500 meters
8	Lyndsay Turgo (Not a land owner, resides on Turbett Farm who withdrew their objections)	2,000 meters

These objectors are all our neighbours and they are entitled to their own opinions based on their own knowledge and have in the previous three community consultations including the community consultation report enacted under by-law 8-15 and the two public conditional use hearings made their opinions, views and opposition known to both the appellant and the Council. In each instance our

neighbours have NOT provided any expert evidence to support their opposition during the 5 year application process.

In fact, the appellant has provided expert evidence (WSP was hired for both applications) and the RM of Rosser engaged AMEC/Foster/Wheeler and its successor Woods to review all the expert reports. Through these reports from the series of engineering and planning experts whose evidence was not contradicted and does not support the objections in anyway whatsoever.

In this hearing a new objection was raised respecting "fly rock" which was not raised before. Mr. Ogilvie and Austin Powder's the blasting company provided evidence that the maximum vertical projectile was 50 to 100 meters and maximum horizontal projectile was 100 meters.

It is to be noted that the quarry lands are bisected a Mb. Hydro 500kv transmission line. We have permission from Mb. Hydro by agreement to blast within 60 meters of the ROW limit. If Mb. Hydro is not concerned with fly rock then why should the residents that are farther away be concerned?

With respect to blasting provincial regulations are very severe in terms of noise separation distance from mining to residences. Berms and treed buffer areas for visual and noise attenuation are provided. The berms being three meters wide, 3:1 sloping and three meters high exceed Mb. Mines branch regulations for quarry operations. The berms and treed buffer areas also deal with visual, dust, safety and noise issues. Lilyfield Quarry will comply with all federal, provincial and municipal rules and regulations for quarry operations.

The whole issue of well water was dealt with in detail with the evidence of Mr. Jeff Bell of Friesen Drillers Ltd. a noted hydro geologist. Mr. Bell's evidence was that the quarry operation would not penetrate the water table and at all times would be 1.5 meters higher than the water table. Mr. Bell gave extensive evidence dealing with the water well situation and recommended that a seismograph be installed together with a well monitor on site. In addition, the expert report had recommended a well water monitor program with a 2 mile radius from the quarry operation, normally it is 1 mile radius for water monitoring plan. The concerns of the rate payers were addressed and a program as recommended by Mr. Bell will be instituted.

Similarly, evidence was given to the Board with respect to dust mitigation, water and calcium chlorine application at both the internal and external haul roads. Evidence was also provided from the Dillon report on truck traffic and highway improvements for 236 right hand turn lane. The appellant will upgrade route 68 from just east of Summit Road to PR 236, all these works will be done at the cost of the appellant.

The concerns relating to the crushing operation were addressed in a two fold manner. Firstly, the crusher cannot be located closer than 50 meters to the external boundary of the quarry property and secondly the retention of the trees other than those removed by Hydro (20 meters) in the NE corner would provide treed buffer to the residences. Manitoba Hydro has jurisdiction that the service provided to the site be located on the Municipal road allowance No. 69, the evidence of the Kaplen family that the trees to be removed is incorrect.

Manitoba Hydro has given an agreement to operate the quarry and as well NAV Canada has provided approval of the application.

Concerns were raised respecting rehabilitation. The appellant and the R.M. of Rosser both agree that progressive rehabilitation ought to be provided as the quarry operation moves from each phase in 40 acre plots. The separated stockpiled topsoil will be used for the rehabilitation process.

The expert witnesses after providing their evidence, in reviewing exhibit 14 and all other reports stated to their knowledge no other quarry had such stringent and restrictive operating conditions to try and satisfy eight (8) objectors concerns.

The last area to be addressed relates to damages to wells, property value and/or other structures. Any reduction in market value is subject to compensation being paid pursuant to the terms of the property value claims. The appellant has proposed a compensation scheme for damages incurred in each of these areas should any damage be incurred as a result of the quarry operation.

The appellant would like to bring attention to the Municipal Board the following matters:

1. All of the objectors live on small holdings around the quarry.
2. None of their holdings meet the minimal requirements of either the current zoning by-law or the previous zoning by-law in terms of building requirements, i.e. 80 acres and their uses are residential and not agricultural.
3. The petition filed by Six Pines was most interesting particularly having regard to the geography of the petitioners. It is respectfully submitted that no weight ought to be given to this petition generated by social media.
4. Only 8 objections were raised at the Municipal Board hearing. What is the position of the 1350 residents of the R.M. of Rosser? The appellant suggests that the terms and conditions of the operation of the quarry are so stringent that there is no further opposition.
5. The petition of approximately 105 signatures in favor of the conditional use were executed by local rate payers of the RM of Rosser supporting this appeal. In addition viva voce evidence was provided supporting the conditional use application by five (5) rate payers of the RM of Rosser.
6. That the opposition constitutes a classic **NIMBY** response to this fundamental undertaking.

Planning Concerns

Mr. John Wintrup in his report filed as Exhibit 13 went into great detail as to the existing planning legislation, South Interlake Development Plan and the Zoning By-law 15-14. The conclusion of Mr. Wintrup after reviewing the documents including Exhibit 17 of the TRC report was that the conditional use application filed,

- (i) will be compatible with the general nature of the surrounding area,
- (ii) will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area, and
- (iii) is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.

This was also the view of three other land use planners called as expert witnesses being:

Larissa Sveinson, Province of Manitoba, Provincial Planning,

Michelle Richards, Planning Consultant, and

Jennifer Rogers, Mineral Resources, Planning Consultant.

All of the foregoing witnesses were registered professional planners in the Province of Manitoba and qualified to give their planning advice as witnesses. All of these witnesses made reference to the SIPD Development Plan and the designation of the subject lands as medium resource base lands and this resource ought to be exploited, Lilyfield Quarry aggregate source meets both MI and City of Winnipeg aggregate specifications. This represents part of the provincial economic plan to utilize this resource in building the infrastructure in the Province of Manitoba and The City of Winnipeg.

The Municipal Board

It is respectfully submitted to the Municipal Board of Manitoba that this appeal filed as Exhibit 1 ought to be approved by the Board pursuant to the terms and conditions agreed to between the appellant and the R.M. of Rosser in Exhibit 14. In particular, the basis for the consenting to the terms and conditions were the various technical representations from experts filed by the appellant and the exhibits # 3 through and including 14 and the viva voce evidence of Colleen Munro. The R.M. of Rosser engaged experts and reviewed all of the technical expert reports and the reviewing experts ultimately agreed with all of the findings of the appellant's experts. THERE WAS NO DISAGREEMENT OF ANY FINDINGS OR OPINIONS.

It is therefore respectfully submitted that the Municipal Board order that the appeal be granted on the terms and conditions set forth in Exhibit 14 and such further and other terms, conditions and other recommendations that the Municipal Board of Manitoba may consider necessary under Section 118.4(1)(b)(i).

It is also requested that this order be pronounced as soon as possible with the formal written Board order and reasons to follow.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 11th DAY OF AUGUST, 2020.

PER:



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