

<b>To:</b>	Warden Hicks and Members of Grey County Council
<b>Committee Date:</b>	June 27, 2019
<b>Subject / Report No:</b>	TR-CW-18-19
<b>Title:</b>	Grey County Quarry Update
<b>Prepared by:</b>	Pat Hoy, Director of Transportation Services
<b>Reviewed by:</b>	Kim Wingrove, CAO
<b>Lower Tier(s) Affected:</b>	Member Municipalities
<b>Status:</b>	Recommendation adopted by Committee of the Whole as <b>amended</b> as per Resolution <i>CW144-19</i> ; Endorsed by County Council on July 11, 2019 as per Resolution <i>CC52-19</i> .

## Recommendation

1. That Report TR-CW-18-19 regarding the Grey County Quarry Update be received for information; and
2. That Council provide direction to staff on next steps.

## Executive Summary

Report TR-CW-45-18 Grey County Quarry Options, was presented on November 8, 2018. That report recommended divesting the property through a tender process subject to attaining an agreed reserve value or alternatively leasing the property. Committee of the Whole requested that staff review leasing options for the Grey County Quarry as per Resolution CW274-18.

Staff have studied the issues that would need to be addressed as part of the Request for Proposal (RFP) with the intention of obtaining a royalty payment for material.

## Background and Discussion

In 2002, Grey County was issued a Category 2 Licence by the Ministry of Natural Resources and Forestry (MNR) to operate a Quarry on the 20.29 hectare site located on Grey Road 40. The Licence stipulates that no more than 250,000 tonnes of material can be removed in any calendar year.

Grey County operated the Quarry for ten years as a wayside pit, with an average annual production of 62,100 tonnes. Other than the removal of products from stockpiled processed materials, the Quarry has been inactive since 2013.

Golder and Associates (Golder), a consulting firm specializing in hydrogeology and mining, provided an evaluation of the remaining resources, both above and below the water table in 2016 and 2018, respectively. A drilling program would be necessary to provide a highly accurate calculation of the available material; however, Golder estimates there is 1.7 million tonnes above the water table and more than 3.2 million tonnes below the water table. These estimated quantities were utilized by Altus. A new Permit to Take Water is required for the Quarry to restart operations. That application would require the completion of hydrogeological studies. Excavating below the water table would require an amendment to the Niagara Escarpment Plan and supported by comprehensive technical studies.

To put the Quarry production in context, aggregate production in Ontario was reviewed. Over the past sixteen years, licenced annual production in the Province has averaged 146 million tonnes. Of that, about three million tonnes is coming from Grey County. Average annual production provincially has been trending downward slightly. There has been an increase in the number of aggregate licences and a shift from Class B Licence (production limited to less than 20,000 tonnes annually) to a Class A Licence (production more than 20,000 tonnes annually). Since 2013, eleven new Class A licences have been issued in Grey County. Ten of these represent a total annual maximum extraction of 1.39 million tonnes. One licence has no maximum amount. There are twenty-two licenced properties within a 25 kilometre radius of the Quarry.

In September 2017, Altus Group Limited (Altus) was awarded RFP-TS-16-17 to complete a study of the Quarry. The table on the following page outlines the summary of the options reviewed.

<b>Grey County Quarry Options Summary</b>			
	<b>Option</b>	<b>Considerations</b>	<b>Recommended</b>
1.	Continued Grey Ownership, Hold as Inactive	Status quo. Requires minimal investment and provides minimal revenue. Retains the asset in public hands and the opportunity to restart the quarry at a future date.	No. Unknown future value. County maintenance, liability and site security considerations.
2.	Surrender the Licence and Rehabilitate the Property	Significant investment to amend the MNRF site plan and NEP. Requires NEP Development Permit for rehabilitated use. Cost of rehabilitation itself would be significant.	No.
3.	Resume Extraction and Outsource Crushing Operations	This was practiced between 2002 and 2012. Crushing and stockpiling services were expensive and negatively impacted the cost competitiveness of the final product either for Grey's own use or for sale to others.	No.
4.	Resume Operation and Apply to Extract Below the Water Table	Would require a minimum \$600,000 investment to support an application. Given the availability of competitively priced supply for the foreseeable future, a positive return on such an investment would be difficult to achieve.	No. If approved, below the water table extraction would significantly increase the material available to be extracted and the long-term revenue stream for the property.
5.	Lease to Private Operator Under Royalty Arrangement	Provides Grey County with a return in the form of royalty income over the term of the lease/licence on its investment in the Quarry. In addition, the County avoids the financial risks of applying for a major site plan amendment or a new licence to permit below water extraction, which would depend on the standards at the time. An agreement could support the tenant/licensee making such an application.	Maybe. Grey County would bear the risk of the tenant/licensee becoming insolvent or failing to adhere to best practices in their operations at the site. In the event of default, Grey may be required to take over the operation, tender for a new tenant/licensee or rehabilitate the quarry.
6.	Sell the Quarry as Licenced	Eliminates risks and liabilities associated with continued ownership and the potential to recapture some or all of the capital investment in the Quarry. Issuing a tender would be the recommended process for a sale.	Yes. County can meet its needs with other competitively priced sources of aggregate. Buyer may obtain value from the site that County would not be able to achieve.

On November 8, 2018, Report TR-CW-45-18 was brought forward. After an in-camera discussion, the following was passed by the Committee of the Whole:

*That staff be directed to bring back a report regarding the leasing options of the Grey County Quarry.*

Grey County Staff subsequently met with a local contractor familiar with quarry operations to discuss items that would be needed for a contractor to complete the Grey County RFP process.

## Project Delays and Risks

Gathering information on quarry proposals and agreements that pursue a royalty-based arrangement has been difficult. This has resulted in some time delay.

On March 29, the MNRF held a Summit on Aggregate Reform where the industry made recommendations to the Provincial government to discuss reducing 'red tape' in the quarry industry.

Transportation Services has subsequently held discussions with the Ontario Stone, Sand and Gravel Association who have submitted a document entitled *Untangling Red Tape* to the Provincial government in March 2019. To date, a decision from the government has not been received. A reduction in application requirements (depending on our decision to sell or lease) could reflect a risk or an opportunity to the County from a financial perspective. For example, if regulatory requirements are reduced after a lease agreement is executed, Grey County could fail to benefit from potential revenues.

## Agreement Specifics

The following section provides a summary of specifics that would need to be addressed prior to release of a royalty-based RFP.

### *Oversight and Administration Cost*

This is likely the largest source of potential risk for the County. The potential operator would likely be willing to take on the majority of administration and regulatory requirements. The potential issue is that, although Grey County would likely continue to pay our currently retained consultant to overlook the operator's documents, there is no easy way to know that the operator is doing what they say. Grey County would still require significant staff time and consultant resources to review the material. The difficulty in oversight is compounded by a lack of staff expertise in the area.

The following are regulatory requirements that would need to be included in the agreement.

### *Required Monitoring Programs*

- Blasting monitoring as per Ministry of the Environment Conservation and Parks (MOECP)
- Hydrogeology: water level monitoring, currently completed by consultant.
- Hydrology: surface water discharge quality tests.

- BioMAP: monitor fish habitat health at intersection of permanent water course every three years.
- Refueling: details of compliance with TSSA regulations to be provided in annual MNRF Compliance Assessment Report (CAR).
- Permit to Take Water would likely be the contractor's responsibility.
- Any changes to the operation of the Quarry would require a site plan amendment to be filed with the MNRF with notice to the Niagara Escarpment Commission.
- The Ontario Aggregate Resources Corporation receives fees each year based on production. The operator would likely pay these fees and reimburse the County.

## *Use of Material*

Grey County has historically crushed the rock in the Quarry to use for road construction. There may be higher value uses of the material. The County does not possess the expertise to determine this. It is assumed the quarry operator would be able to determine their own desired use. If the potential use is discovered (priced) after the RFP has been awarded, the County could potentially miss out on some return that the operator will obtain. Some geotechnical testing would be included in the RFP documentation and the material would be suitable for other uses with the following concerns as outlined in the Golder Aggregate Report.

*Testing carried out on the three samples from the Amabel Formation as part of ARIP 180 yielded variable results with some concerns with respect to absorption and possibly micro-Deval results that could limit the use of some of the material for hot mix asphalt and concrete aggregate.*

## *Evaluating Proposals*

As the County has no control over the operation of the Quarry once leased, the County must establish a payment schedule that includes more than just royalties. Situations have occurred where the royalty lease holder only bid for control of a quarry/pit to prevent competition. To prevent this, some sort of yearly rental must be part of the agreement.

The County would either need to evaluate proposals by the operator or set a minimum rent and royalty payment. The operator could be awarded a higher royalty for using the material sooner as money with the County now is worth more than money to the County ten years from now. The limited knowledge of quarry operators makes this difficult to define for the County. For example, the following cannot be numerically evaluated without knowing the quarry production.

Contractor	Yearly Rent	Royalty per Tonne
A	\$5,000	\$0.50
B	\$10,000	\$0.40

## *Contractor Sold or Bankrupt*

The agreement must contain conditions, guarantees or a deposit protecting the County should the operator be sold or go bankrupt.

## *Lease Term*

The contract must identify the term of the lease and any reference to renewal. The lease should contain details of the mechanism for dealing with disputes, or breaches of the agreement and how each party can terminate the lease (sunset clause) or claim for damages.

The operator would be prevented from subcontracting out operations to another operator without County permission.

## *Extraction Below Water Table*

The main reason for leasing access to the above ground material is that the County is not giving up the right to someday extract below the water table. Currently, the cost to obtain approval is estimated at up to \$600,000. A clause should be included that this may be negotiated at a future date, with the contractor responsible for the costs and process of obtaining approvals.

## *Licensee of Record*

The Licence can either remain in the County's name and the MNRF continues to deal with the County for any Aggregate Resource Act issues or the County could apply for a licence transfer to transfer the Quarry to the new operator.

## *Rehabilitation*

Currently, sixty-three percent of the area has been extracted. The County has a reserve of \$84,931.00 for quarry rehabilitation. An agreement would need to be reached on who is responsible for the rehabilitation.

## *Site Plan*

The following would likely be the responsibility of the contractor:

- Maintenance (grass cutting) and fencing;
- Stripping and berm construction;
- Drilling, monitoring and obtaining a blasting contractor acquiring a permit to close the road;
- Maintaining calibrating and manning the scales.

## **Legal and Legislated Requirements**

As stated above, there are many legal requirements that must be included in a RFP and corresponding future quarry operating agreement.

## **Financial and Resource Implications**

Development of an RFP document, release and evaluation will be funded as part of the Supervision budget. Transportation Services will require the expertise of additional internal departments (Finance, Legal, Clerk) prior to finalizing the agreement. It is also anticipated that

our current quarry monitoring consultants will be contacted regarding the work they complete annually.

## Relevant Consultation

Internal

Finance Department

Planning Department

External

Golder Associates

Ontario Stone, Sand and Gravel Association

## Appendices and Attachments

[Altus Group Draft Grey County Quarry Report](#)

[TR-CW-45-18 Grey County Quarry Options](#)

[Golder Associates Aggregate Report for Quarry](#)

[Ontario Stone Sand and Gravel Association Untangling Red Tape](#)