

## Report TR-TAPS-38-14

**To:** Chair Barfoot and Members of the Transportation and Public Safety Committee  
**From:** M.J. Kelly, Director of Transportation Services  
**Meeting Date:** April 17, 2014  
**Subject:** Addendum Two Revised MAQ Haul Route Road and Improvement Agreement - Grey Road 31  
**Status:** **Recommendation adopted by Committee as presented per Resolution TAPS58-14; Endorsed by County Council May 6, 2014 per Resolution CC60-14;**

### Recommendation(s)

**WHEREAS in accordance with Report TR-TAPS-70-13, the Warden and Clerk were authorized to execute the Addendum for the Aggregate Haul Route Road and Improvement Agreement with St Marys Cement Ltd (St Marys);**

**AND WHEREAS MAQ Aggregate Incorporated's (MAQ) has reassigned their interest in the quarry located on Grey Road 31;**

**AND WHEREAS as a result of delays by St Marys and modifications between the relationship between MAQ and St Marys minor modifications were made to the proposed Addendum approved by Grey County Council;**

**AND WHEREAS the modifications will not affect the original terms of the Addendum to the Agreement;**

**NOW THEREFORE BE IT RESOLVED THAT Report TR-TAPS-38-14 be received:**

**AND THAT the Warden and Clerk be authorized to execute the modified Addendum for the Aggregate Haul Route Road and Improvement Agreement with St Marys as noted in Report TR-TAPS-38-14.**

### Background

On April 24, 2012, the Ontario Municipal Board approved MAQ Aggregate Incorporated's (MAQ) application for a Class A License for the removal of aggregate from its lands located on Part of Lots 20 & 21, Concession A, in the Municipality of Grey Highlands.



The decision recognized that the haul route agreement executed between MAQ, Simcoe County and Grey County regarding Grey Road 31, and that the Ontario Municipal Board had no concerns with the undertaking.

At the August 2, 2011 County Council, the Warden and Clerk were provided the authorization to execute an Aggregate Haul Route Road and Improvement Agreement (including an Addendum) with MAQ and Simcoe County.

In accordance with the Agreement, MAQ was to complete the following work prior to hauling any aggregate for the public:

- Construct the entrance. All of the work is the responsibility of MAQ.
- Upgrades to Grey Road 31 from 25 metres south of Simcoe Road 91 to 220 metres north. All of the work is the responsibility of MAQ.
- Upgrade Grey Road 31 from 35 metres south of Simcoe Road 91 to County Road 124. This work included widening the road platform to the east; recognizing that Simcoe County has acquired a 6 metre widening. The cost of this work would be shared as follows
  - 50% MAQ
  - 25% Simcoe County
  - 25% Grey County

In the winter of 2012, MAQ advised the Counties of Simcoe and Grey that St Marys will be operating the quarry on their behalf.

The upgrade on Grey Road 31 that is to be cost shared by MAQ and the Counties of Simcoe and Grey is to be tendered publicly.

In April, 2013, a technical review meeting was held to discuss the proposed plans for the work that would be cost shared. At this meeting, Simcoe County revealed that they had not obtained the 6 metre widening required to accommodate the proposed work.

Simcoe County is currently trying to obtain the property required to accommodate the work.

Without the property, the work could not be tendered for construction in 2013. As a result, in accordance with the Agreement, St Marys cannot commence hauling aggregate for the public.

St Marys wishes to construct its entrance and complete the upgrades to Grey Road 31, from 25 metres south of Simcoe Road 91 to 220 metres north, as per the Agreement commencing in May, 2014.

St Marys has requested that the Counties of Simcoe and Grey amend the Agreement that they have with MAQ, to permit the hauling of aggregate for the public prior to the completion of the road upgrade of Grey Road 31 from 25 metres south of Simcoe Road 91 to County Road 124 because of the unexpected delays, related to the property purchase to accommodate the road construction.

Simcoe County and Grey County solicitors have verified that making an addendum to the Aggregate Haul Route Road and Improvement Agreement would not have an impact on the Ontario Municipal Boards decision regarding the Quarry.

Grey County and Simcoe County Staff have reviewed the condition of Grey Road 31 and the geotechnical report and are of the opinion that there should be minimal damage to Grey Road 31 if St Marys hauled material (250,000 tonnes in 2013 and 250,000 in 2014), prior to the road reconstruction work being completed. If deterioration does occur St Marys will complete the required work at its cost.

At the June 20, 2013 Transportation and Public Safety Committee meeting the following resolution was passed and endorsed at the July 2, 2013 County Council meeting:

**AND WHEREAS MAQ Aggregate Incorporated, Simcoe County and Grey County have executed an Aggregate Haul Route Road and Improvement Agreement regarding the proposed quarry located on Part of Lots 20 & 21, Concession A, in the Municipality of Grey Highlands, adjacent to Grey Road 31;**

**AND WHEREAS the Operator (St Mary's Cement and CBM Aggregate) of the quarry was proceeding to complete the required work as per the Agreement and it was discovered that Simcoe County had not secured the property as required in the Agreement to accommodate the work;**

**AND WHEREAS the operator has requested permission to haul limited amounts of quarried material in 2013 and 2014, until the property is secured and the construction completed;**

**AND WHEREAS the solicitors for Simcoe County and Grey County are of the opinion that an Addendum can be made to the Aggregate Haul Road and Improvement Agreement without impacting the Ontario Municipal Decision regarding the quarry property;**

**NOW THEREFORE BE IT RESOLVED THAT Report TR-TAPS-44-13 be received;**

**AND THAT Grey County Staff enter into discussions with MAQ Aggregate Incorporated and Simcoe County and to establish and execute an agreement to permit the haulage of material from the quarry based upon specific conditions.**

On October 17, 2013 the Transportation and Public Safety Committee passed the following resolution:

**WHEREAS Grey County Staff were given direction to enter into discussions with MAQ Aggregate Incorporated and Simcoe County to establish an agreement to permit the haulage of material from the quarry, based upon specific conditions per Resolution TAPS78-13;**

**AND WHEREAS the proposed addendum meets the requirements established by Grey County;**

**NOW THEREFORE BE IT RESOLVED THAT Report TR-TAPS-70-13 be received:**

**AND THAT the Warden and Clerk be authorized to execute the Addendum for the Aggregate Haul Route Road and Improvement Agreement.**

St Marys has been unable to commence the Grey Road 31 road work in 2013; however, they wish to begin in May, 2014. As a result of the delay and the reassignment of the Quarry from MAQ to St Marys, some minor modifications have been made to the Agreement as proposed on October 17, 2014. Marshall Green from HGR Graham Partners LLP has implemented the revisions. Marshall Green was the solicitor who represented Simcoe County and Grey County when the original agreement with MAQ was developed.

The modifications to this Agreement will not have any impact on Grey County.

## Financial / Staffing / Legal / Information Technology Considerations

Grey County's Solicitor and County staff have reviewed the original proposed Addendum to the Aggregate Haul Route Road and Improvement Agreement and have no outstanding concerns. In the solicitor's opinion, an Addendum will not have any impact on the Ontario Municipal Board's decision regarding the Quarry.

The solicitor who represented Simcoe and Grey Counties with the original Agreement with MAQ, made the required revisions to the original Addendum to the Agreement

St Marys will pay for the replacement of nine (9) centerline culverts at their cost, which is a significant cost savings for Grey County. In addition, St Marys will pay for the legal costs.

## Link to Strategic Goals / Priorities

Goal 4.6; working cooperatively with our neighbours on issues of mutual interest, in support of advancing collective aspirations.



## Attachments

[Aggregate Haul Route Road and Improvement Agreement](#)

[Aggregate Haul Route Road and Improvement Agreement - Addendum Two](#)

Respectfully submitted by,

M.J. Kelly

Director of Transportation Services