

Ministry of
Natural Resources
Aurora District Office
Bloomington Road
Aurora, Ontario L4G 0L8

Ministère des
Richesses naturelles
Telephone: (905) 713-7400
Facsimile: (905) 713-7361



September 23, 2010

Mr. Tom Jones
Miller Paving Limited
505 Miller Avenue
Box 4080
Markham, Ontario
L3R 9R8

FILE COPY

Dear Mr. Jones:

SUBJECT: Aggregate Resources Act, Licence No. 6578
Lot 18, 19, and 20, Concession VII
Township of Uxbridge, Regional Municipality of Durham

Ministry of Natural Resources (MNR) is in receipt of your letter dated August 12, 2010, which pertains to the MNR Notice of Inspection (NOI) dated June 9, 2010, and our site meeting of August 10, 2010.

As you are aware, the Aggregate Resources Act (ARA) approved site plan is a legal document. It pertains specifically to the aggregate operation of a site governed by the licence, and guides the licensee and MNR inspector in how the site is to be operated. It is prescriptive in nature, therefore, if the site plan is silent on an activity then it is not a permitted use.

The ARA also requires that information be furnished on the site plan describing the zoning by-laws applicable to the licensed site and adjacent lands. Municipal zoning, which would allow for the extractive operation of a pit or quarry, must be in place in order for the Minister to issue a licence for the site. It is not uncommon for municipal zoning to allow for a range of activities in addition to the extractive operation; however, if that particular activity permitted by the zoning is not specifically addressed on the ARA site plan, then it is not a permitted use within the licensed property.

In accordance with Section 15 of the ARA, it is the duty of the licensee to operate the licensee's pit or quarry in accordance with the Act, the regulations, the site plan and the conditions of the licence.

With regards to item C15 – Scrap:

The site plan does not specify a scrap storage area. The NOI required you to remove a small amount of scrap fencing and posts that were accumulating in an area northeast of the asphalt plant.

This item also requested you to provide additional information pertaining to the large cylindrical bins that were being stored southeast of the asphalt plant. Miller staff has now advised that these are large silos that were purchased last year as replacement parts for use in the asphalt plant at

this site as well as other sites owned and operated by the Miller Group. The silos were being stored here as there was/is no room for the silos at the other locations. It was agreed that the silos would be installed by January 1, 2011 or be removed from the site.

Other items being stored southeast of the asphalt plant included construction cones, signs, old/new metal culverts, concrete culvert, O pipe, wood, scrap metal, fuel tank, drums, trailer, used silt fence with stakes attached, and a children's swing set. You have indicated that the storage of this material is in compliance with the approved M3-1 municipal zoning which includes as one of the permitted uses a contractor's yard. It is agreed that the site plan states that an area southwest of the asphalt plant is zoned M3-1, however, the site plan does not specifically address the storage of material associated with a contractor's yard. Therefore, as you are aware, an activity not identified on the site plan is not a permitted use within a licence.

With regards to any site plan amendment Miller Paving Ltd. may submit on this matter, please be advised that MNR will require an explanation as to how a contractor's yard may be considered to be an integral part of an aggregate operation. This, notwithstanding the range of land uses that may be permitted by the municipal zoning for a specific area.

With regards to item D33 – Importation of Material:

The current site plan for this property was approved in 1991. In 1995, as part of a requirement of an Uxbridge municipal by-law to regulate the storage of asphalt for recycling within pits, R.E. Bugden Vice President of Miller Paving Ltd. requested a letter from MNR confirming that:

- The site plan for the pit showed the proposed product storage site as an approved location for such storage; and
- That the pit is in compliance with all requirements of the ARA and associated licence and site plans for the lands.

It was noted during MNR's review of the plan, at that time, that the storage of asphalt for recycling was not recognised on the approved plan. When this was brought to the attention of Mr. Bugden an amendment was requested. The amendment was specific to the storage of reclaimed asphalt. MNR staff was also advised that the reclaimed asphalt would be in the form of grindings, as produced by an asphalt milling machine or by crushing chunks of asphalt pavement. In addition MNR staff was further advised that the quantity at any one time was not expected to exceed 25,000 tonnes. The amendment was processed by MNR and approved by way of a letter dated July 3, 1996. It was a condition of this approval that:

"A stockpile of reclaimed asphalt pavement, not exceeding 25,000 tonnes in size, may be stockpiled within the M5-1 zone of this property".

At the time of the May 2010 inspection, MNR staff observed that limestone, and concrete for recycling purposes, had been imported to the site. As you are aware, the site plan does not recognise the importation of these types of material.

During the meeting of August 10, 2010, you advised that Miller Paving Ltd. has been importing this material for several years as the material in the pit is too sandy and that the material was

needed for use as plant feed for the asphalt plant. You also indicated that Miller Paving Ltd. would be requesting an amendment to show the importation of limestone for blending, and concrete for recycling.

Please be advised that MNR staff is prepared to receive, review and discuss any requested site plan amendment Miller Paving Ltd. may wish to submit. MNR would again reiterate that the site plan amendment process is not a means to correct non-compliance issues. Therefore, MNR would offer the following advice should Miller Paving Ltd. wish to submit a site plan amendment request for the matters specified:

Importation of additional material

- It is suggested that any such amendment request be dealt with comprehensively. A detailed explanation should be provided as to what materials are to be imported for what purposes;
- How much of each individual material is anticipated to be stockpiled on site at any given time;
- The location of the stockpiles on the site plan for each individual material;
- How the individual stockpiles are to be defined on the site (e.g. concrete block retaining wall, marker posts, fenced area, etc.); and
- How the importation of material will be directly tied to a production amount for extracted on-site aggregate material.

Contractor's Yard

- It is suggested that any such amendment request provide a detailed explanation as to how Miller Paving Ltd. is of the opinion that a contractor's yard and related storage of construction material and scrap is directly tied to an aggregate extraction operation and how such a use is considered to be an integral part of the licence operation.


Lastly, MNR notes in your letter of August 12, 2010, that Miller Paving Ltd. is concerned that MNR's interpretations and the possibility of MNR not giving a fair assessment of Miller Paving Ltd.'s interpretations could put in jeopardy the future of a 25 year local business, the employment and livelihood of many employees, and benefits to the local economy.

To be absolutely clear, at no time during the site meeting of August 10, 2010, did MNR staff indicate anything about issuing a suspension notice to shut down your operation. Therefore, MNR must assume that these references are related to any site plan amendment requests that Miller Paving Ltd. may make. In this regard, MNR would appreciate that any site plan amendment request indicates how non-acceptance of the amendment would directly impact these matters specified in your August 12, 2010 letter. MNR would like such an explanation for each of the major components that may be included in any site plan amendment request, e.g. importation of additional materials for blending recycling and use by the asphalt plant; the operation of a contractor's yard and related storage of construction materials and debris; etc.

Please be advised that my manager is aware of your letter of August 12, 2010 and this response.

Should you have any questions on the foregoing or require further information, please do not hesitate to contact me at 905-713-7396.

Sincerely,



Catherine D. Douglas
Aggregate Resources Officer
Aurora District

cc D. Pella Keen, MNR District Manager, Aurora
G. McLaren, Aggregate Resources Co-ordinator, Southern Region
R. Essex, Vice President, Miller Paving Limited