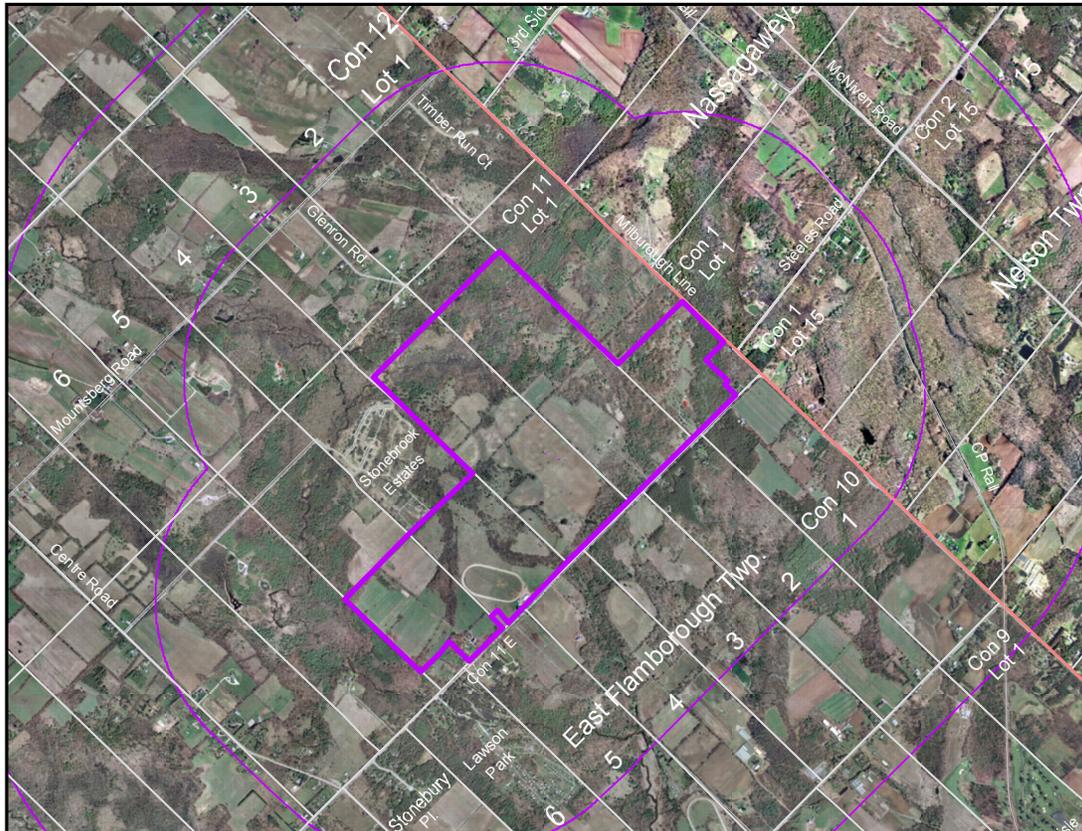


# Part I - Natural Environment Review of the Preliminary Level 2 Natural Environmental Report (being part of Lowndes Holdings application for a Category 2, Class "A" Below Groundwater Quarry License)

December, 2005



*Prepared For:*  
Friends of Rural Communities and the Environment (FORCE)  
Lawson Park Ltd., Box 15,  
RR # 1, Freulton, Ontario  
L0R 1K0

*Prepared By:*  
North-South Environmental Inc.  
35 Crawford Crescent, Unit 5  
P.O. Box 518,  
Campbellville, ON, Canada L0P 1B0



## **Acknowledgements**

Report Authors: Brent Tegler Ph.D., North-South Environmental Inc.  
Brian Hindley M.Sc., Aquafor Beech Ltd. (Part II Aquatic Biology Component)

Supporting Research: Sarah Mainguy M.Sc., North-South Environmental Inc.  
Mary Anne Johnson B.Sc., North-South Environmental Inc.

Mapping Support: Garry Hunter, Hunter and Associates

# **Part I Natural Environment Component - Review of the Preliminary Level 2 Natural Environmental Report** **(being part of Lowndes Holdings application for a Category 2, Class "A" Below Groundwater Quarry License)**

## **1.0 PURPOSE, STRUCTURE AND APPROACH OF REPORT**

This report focuses on an assessment of natural heritage (plants, animals, soil, water, air, ecosystem structure and ecosystem function, etc.) in providing a review of the *Preliminary Level 2 Natural Environment Report* prepared by Stantec on September 7<sup>th</sup>, 2004. The review will consider the requirements of a Level 2 Natural Environment Report as prescribed by the Aggregate Resources of Ontario, Provincial Standards, Version 1.0 and will undertake a review of the quality and accuracy of the proponent's report in terms of the following:

- thoroughness of the review and incorporation of available information;
- the methods used to acquire new information;
- the presentation of data;
- the analyses performed on the available data;
- the assessment of data quality and data gaps; and
- the conclusions drawn from the data.

This report has been prepared primarily through review of the Preliminary Level 2 Natural Environment report submitted by Lowndes Holdings with their application to the City of Hamilton. Nonetheless all of the reports submitted with the application were reviewed and may be cross-referenced where needed. Both authors of this report, and its Part II Aquatic Biology Component, have also made site visits to the natural heritage and hydrologic features in the vicinity of the Lowndes Holdings properties.

This report also relies on information assembled in our previous report titled, *Preliminary Report of the Environmental Features and Potential Impacts associated with the Proposed Lowndes Quarry, City of Hamilton*. (North-South, June 2005). This report reviewed and assembled information from a variety of sources; for the purpose of the peer review, the most important information sources are the following:

- Conservation Halton. 2002. Bronte Creek Watershed Study. Prepared by the staff of Conservation Halton. Includes main report and 7 appendices;
- Dwyer, J.K.(ed.). 2003. Nature Counts Project. Hamilton Natural Areas Inventory. Prepared by Hamilton Naturalists' Club in partnership with the City of Hamilton and the Hamilton Conservation Authority. Includes two volumes, volume one summary reports of study sites and volume two species checklists for study sites;
- Geomatics International Inc. 1993. Evaluation of Environmentally Sensitive Area Program in Halton Regional Municipality. 1990-1993. Consultants report prepared for the Regional Municipality of Halton;
- Hamilton-Wentworth. 2003. Towards a Sustainable Region Official Plan for the Region of Hamilton-Wentworth. Office Consolidation, July 2003;

- North-South Environmental Inc. 2003. Review of Environmentally Sensitive Areas (ESAs) in Halton Region. 2001-2002. Consultants report prepared for the Regional Municipality of Halton;
- Natural Heritage Information Centre, OMNR, Peterborough; and
- Ontario Ministry of Natural Resources District Offices in Guelph and Aurora.

## 2.0 GENERAL PRINCIPLES

When considering the full range of human land use activities, **open pit mining below the water table constitutes a land use change with one of the most severe of human caused environmental impacts. This is due to the complete removal of the original landscape, including all plants, animals and soil, and the disruption of surficial and groundwater hydrology.** The landform (“quarry pit”) created, cannot be restored to its original state because of the volume of soil (rock aggregate) and bedrock removed as part of the development of the site.

The severity of the environmental impact associated with open pit mining below the water table requires all due consideration will be given by both the proponent and the review agencies when considering this type of proposed land use change. **The proponent of open pit mining is expected to show due diligence in the form of a thorough assessment of the social, economic and environmental impacts. It is equally anticipated that there will be a high level of scrutiny by regulatory agencies and that the public will be informed and have the opportunity for meaningful participation in the review process. In other words, the highest possible standard will apply to all aspects of the decision making process undertaken for an assessment to permit open pit mining below the water table.**

In regard to an assessment of natural heritage, the application submitted by Lowndes Holdings Corp. must be evaluated to determine if the proposed Official Plan and Zoning Amendments are consistent with the policies of the Region of Hamilton-Wentworth Official Plan, Flamborough Official Plan; provincial legislation and policies such as the *Planning Act* and Provincial Policy Statement (MMAH 1997, 2005a (insofar as it defines the Greenbelt Plan terms)), the *Conservation Authorities Act* and companion regulations/policies, the *Greenbelt Protection Act* and companion Plan (MMAH 2005b), and applicable federal acts, in particular, the *Federal Fisheries Act*. *Species at Risk* legislation and related strategies, such as biodiversity strategies, are clearly also relevant. Due consideration will also be given to the newly introduced *Clean Water Act* and its evolutions. **A full and comprehensive evaluation of natural features, functions, impacts, mitigation and monitoring will be required.**

### 3.0 CONCERNS WITH THE OVERALL APPROACH OF THE LEVEL 2 NATURAL ENVIRONMENT REPORT

#### 3.1 CONCERN 1. PROVIDING A LEVEL 2 NATURAL ENVIRONMENT REPORT THAT IS “PRELIMINARY” IN NATURE

Lowndes Holdings has implicitly indicated that it is sufficient to submit a **preliminary** Level 2 Report in support of an Official Plan Amendment application for the zoning of a quarry operating below the water table.

*“This Preliminary Level 2 Report was completed to accompany a **complete** Official Plan Amendment Application, as set out in the Town of Flamborough Official Plan, Section B7.” (Stantec 2004, page 9, paragraph 1, bold used for emphasis)*

The previous section (Section 2.0 Guiding Principles) of this review has posited that because the potential environmental impacts associated with open pit mining below the water table are severe, the impact analysis and application review process should be of the highest standard. The application submission by Lowndes Holdings which includes a Level 2 Natural Environment Report that is titled “Preliminary”, fails to meet the test of applying the highest standard to the impact analysis. Without the submission of a complete and comprehensive Natural Environment Report, the City of Hamilton and other interested parties (Provincial and Federal government, commenting Regional and Municipal governments, Conservation Authority and general public) will lack the information needed to undertake a thorough review of the application.

Section B.7.4 of the Town of Flamborough Official Plan states:

*“When considering amendments to the Plan for the establishment of new pits and quarries or the expansion of existing operation, the following matters will be evaluated by Council:”*

*(iii) potential impacts on the environment, including measures required to minimize any adverse impacts;*

Evaluating potential impacts on the environment should be based upon studies that have been carried out by individuals with the appropriate qualifications, using accepted methodologies at the appropriate times of year and of sufficient duration that there is confidence in the level of understanding of the environmental features and functions that exist. A natural environment report prefixed as “preliminary” suggests additional work is necessary to provide a complete understanding of the environment and to therefore assess potential impacts as required by the Town of Flamborough Official Plan.

Throughout the Level 2 Natural Environment Report reference is made to the preliminary nature of the report and the inability to draw conclusions, particularly in regard to making a determination of potential environmental impacts. The quotations found in Appendix A, taken from Stantec (2004), illustrate the fact that **basic inventory information for plants and animals, surface and ground water data and data analyses are incomplete and inconclusive.**

Of concern, in other cases the Level 2 Natural Environment Report does not make an allowance for the preliminary nature of the report, and draws conclusions such as;

*“A high proportion (29%, or 50 species) of the [plant] species recorded are non-native, which reflects the anthropogenic nature of the past and present land use and ongoing disturbances, in the form of access, use for agriculture, crop field abandonment and subsequent succession to cultural old field meadows.” (Stantec 2004, page 11, paragraph 5).*

When a revised plant list is prepared, based on field inventory that ensures a more complete list of plants, including summer flowering plants, particularly grasses, sedges and wetland plants, we believe that the proportion of non-native species will likely go down.

The preliminary nature of the report raises serious concerns in regard to the following:

- there is incomplete knowledge of the natural heritage features present and their functions;
- there will be a need to incorporate all new information into all relevant sections of the report, including methodology, site conditions and all screening, impact and mitigation analyses, such that subsequent revisions of the report will convey all information in a manner that fully integrates the ecological structures and functions of the site;
- **new information should not be provided as a series of discrete “packets of information” with each being provided at a different time and/or for a different area, and/or for a different aspect of natural heritage**, such as additional plant or animal species, the rarity status of species, the identification of additional Ecological Land Classification (ELC) plant communities, or the identification of significant habitat (wildlife, forests, etc.). **Information provided as a series of discrete “packets of information” will lead to a disjointed understanding of environmental features and functions and preclude a careful analysis of environmental impacts;**
- if new information is provided by way of amendments, it will be necessary for the review agencies to consider the implications of each new source of information in the context of the entire report and it will be necessary to re-evaluate the relative completeness of the report; and
- the review process undertaken by the City of Hamilton will become more time consuming, more costly and it will be more difficult to maintain a high standard of review given the fact that there will be a need to assess one or more revised editions (or amendments) of the Level 2 Natural Environment Report.

### **3.2 CONCERN 2. ADDRESSING THE ROLE OF MUNICIPAL GOVERNMENTS IN PROTECTING REGIONALLY SIGNIFICANT NATURAL HERITAGE FEATURES**

The current planning framework in Ontario places considerable responsibility for the protection of the natural environment on Municipal governments. While the Provincial or Federal government may be the lead agency in developing policy related to natural environment protection, it is the Municipal government that has the lead role in implementing these policies. For example, the Ontario government has established the Provincial Policy Statement (PPS) that includes a Section on *Wise Use and Management of Resources*, but it is the City of Hamilton which takes the lead in applying these policies through their Official Plan, zoning and the review of proposed land use changes such as the application from Lowndes Holdings. The Greenbelt Plan is implemented in similar fashion.

The important role of Municipal governments in protecting natural heritage features of national and provincial interest is crucial but it does and should not detract from the role Municipal governments have in protecting natural heritage features of regional significance as well. Operating at a regional geographic scale, **Municipal governments have a critical role in ensuring that regionally significant natural heritage features are managed carefully, so that they do not become provincially or nationally significant.** To assist Municipal governments in this role, lists of plant and animal species and plant communities of “regional significance” are developed to ensure they are given due consideration and protection, thereby preventing them from becoming provincially or federally rare species or communities.

The report has not provided an assessment of regionally rare plant and animal species or communities despite the fact that such lists do exist. The City of Hamilton cannot therefore be expected to review the Lowndes Holdings application in such a way that would ensure their ability to protect the regionally rare species and communities for which they are responsible.

### **3.3 CONCERN 3. ASSESSMENT OF SPATIAL ASPECTS OF NATURAL HERITAGE FEATURES AND THE PROPOSED OPEN PIT MINE**

Understanding and protecting natural heritage features relies upon a knowledge and analysis of the location, spatial extent and interspersions of species, habitats and communities in relation to one another and in relation to the potential direct and indirect impacts of the proposed open pit mine operating below the water table. **While the text makes reference to spatial impacts, the information needed to support the conclusions drawn is not available.** For example, the text states:

*“The proposed direct removal of portions of the PSW and ESA, will not affect habitat for any rare floral or faunal species (given field results to date).”* (Stantec 2004, page 32 paragraph 8)

The report contains no map showing the location of rare flora and fauna, nor is there a figure showing the areas proposed for direct removal of the PSW and ESA. Consequently the conclusion made in regard to, not having an effect on the habitat of rare flora or faunal species, cannot be substantiated.

### **3.4 CONCERN 4. EXPERIENCE OF INDIVIDUALS PREPARING THE REPORT**

The Level 2 Natural Environment Report requirements as prescribed by the Aggregate Resources of Ontario, Provincial Standards, Version 1.0 require a statement of qualifications and experience of individuals that have prepared the report. This information is particularly important to work in the natural sciences as it permits an assessment of the qualifications of persons conducting field work, which in turn translates in to an understanding of the level of detail that may be anticipated from field studies. For example, preparing a complete list of plants for a given area requires the expertise of a skilled botanist. Botanists generally specialize in a particular area of botany, such that, field studies by one individual may provide a good list of vascular plants but the plant list may be lacking non-vascular plants such as mosses and lichens. Other areas of the natural sciences such as birds, amphibians, fish, insects may require individuals with taxonomic and ecological skills in these particular areas. Therefore knowing the qualifications and experience of the persons that have contributed to various portions of the Level 2 Natural Environment Report will permit an assessment of the completeness of the information. **This information has not been provided.**

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## 4.0 DETAILED REVIEW

This section of the review follows the table of contents of the Preliminary Level 2 Natural Environment Report (Stantec 2004), and refers to report sections based on their section number and title.

### 4.1 CONCERN 5. CLEAR STATEMENT OF NATURAL HERITAGE FEATURES TRIGGERING A LEVEL 2 STUDY

Report “*Section 1 Background*” (page 1) references the requirements of Category 2 Class ‘A’ licences as prescribed in Aggregate Resources of Ontario Provincial Standards and the natural heritage features that must be assessed on or within 120 metres of the site to determine if a Level 2 study is required. The report states “*As part of the Level 1 background review for this site, several of the features listed above were determined to occur either on or within 120 m surrounding the proposed extraction site.*” (Stantec 2004, page 1 paragraph 5).

**The Natural Heritage Features triggering the Level 2 should be clearly listed and mapped as this forms an important foundation for the remainder of the report.** Knowing the names and locations of the most significant natural heritage features within the site, within 120 metres of the site and in relation to the area that will be occupied by the proposed quarry operations is essential to understanding and analyzing impacts.

### 4.2 CONCERN 6. TIMING AND BREADTH OF FIELD WORK

Report “*Section 1.1 Site Reconnaissance and Surveys*” (page 2) lists dates for field work, “*Section 1.2 Methodology*” outlines methods used for fauna and flora surveys. **There are a number of issues related to methodology, rationale for field approaches used, timing and duration of field surveys, and the analysis and reporting of results that have been noted.** For example, in order to provide a more complete inventory of plants, a summer botanical survey is necessary, particularly in regard to the identification of sedges and wetland species. Faunal surveys are also required for reptiles (notably snakes), dragonflies, damselflies and butterflies. The methodology for some work is not clear (see concerns below) nor is the rationale for methods clearly delineated, such as the rationale for using a wandering transect method for the salamander survey, nor are the outcomes of the chosen methodology always clearly reported. Not all bird surveys were conducted consistent with Bird Studies Canada survey methodology. For example, the red shouldered hawk survey was conducted outside the recommended timing window. It is also likely that additional bird species may be added to the existing inventory with bird surveys conducted earlier in the season. Breeding bird surveys should have been conducted early in the year to capture early breeders. There is also an inconsistency in the reporting of the timing of the Breeding Bird Survey: on page 2 of the report the timing stated is “*July 1 and 2, 2004*”; on page 32 of the report the timing stated is “*A breeding bird survey completed in this site in late June 2004*”.

#### 4.3 CONCERN 7. METHODOLOGY USED FOR ELC VEGETATION COMMUNITY CLASSIFICATION

Report “Section 1.2.1 Flora and Vegetation” states, “Vegetation communities were delineated on aerial photographs (November 2003, 1:20,000) and checked in the field; community characterizations (ecosites and ecotypes) were then based on Ecological Land Classification for Southern Ontario (ELC) (Lee et al., 1998)” (Stantec 2004, page 1 paragraph 5). Accurate classification of ELC ecotypes requires application of the data collection methodology outlined in Lee et al. (1998). It is unclear whether the methodology of Lee et al. (1998) was used based on the report content, and if so, copies of field data sheets should be included as an appendix in order to permit evaluation of the Level 2 report.

#### 4.4 CONCERN 8. DETERMINATION OF RARITY STATUS OF FLORA

Report “Section 1.2.1 Flora and Vegetation” makes no statement regarding what methods were used to determine the national, provincial or local rarity of the flora. The table of plants in Appendix A does include columns referring to rarity status (*Provincial Status, Global Status, Local Status Halt, Local Status Peel*), however, how this information was determined is not explained. Report “Section 3.3 Vascular Plant Species” lists four plant species ranked S4; these are plants considered uncommon to locally common in Ontario. This Concern should be cross-referenced with Concern 2 that refers to the role of the City of Hamilton in protecting natural heritage values of **regional significance**.

#### 4.5 CONCERN 9. APPLICATION OF FLORA AND VEGETATION METHODOLOGIES CITED

Report “Section 1.2.1 Flora and Vegetation” refers to the use of the following two evaluation methodologies:

- “Provincial significance of vegetation communities was based on the draft rankings assigned by the Natural Heritage Information Centre (Bakowsky, 1996)” (Stantec 2004, page 2 paragraph 3)
- “Identification of potentially sensitive plant species is based on assignment of a coefficient of conservatism (CC) to each native species in southern Ontario (Oldham et al., 1995)” (Stantec 2004, page 2 paragraph 3)

While these two methodologies are listed, there is no subsequent reporting on the outcome of the use of methodologies. The report makes no reference to the status of vegetation communities in terms of provincial significance. The plant list in Appendix A includes information on CC, however, the main body of the report undertakes no analysis whereby this information is used in any meaningful way.

#### 4.6 CONCERN 10. TOTAL NUMBER OF PLANT SPECIES RECORDED LOW

Report “Section 3.3 Vascular Plant Species” states:

“One-hundred-and-seventy-four species of vascular plants were recorded from the Subject Lands during the fall 2003 inventories.” (Stantec 2004, page 11, paragraph 5).

This number of plant species is very low considering the size of the property evaluated and the diversity of plant communities present. The low number of plants reflects the timing of the field investigations, “fall 2003”, and also reflects the limited amount of time (two days) spent conducting preliminary ELC mapping and a fall botanical survey. Section 1.1 of the report indicates a spring botanical survey was conducted on May 13 and May 14 (Stantec 2004, page 2, paragraph 1, bullet 10); this data does not appear to have been incorporated into the Preliminary Level 2 Report.

In order to assess the biodiversity of the Lowndes Holdings property, in particular the presence of rare vascular plant species, additional field studies need to be conducted covering relevant growing periods.

#### **4.7 CONCERN 11. ASSESSMENT OF LOCALLY SIGNIFICANT BREEDING BIRDS**

Report “Section 3.4.2 Breeding Birds” states the following:

*“Twelve species are considered to be locally significant in the City of Hamilton Curry, unpublished September 2002); Wood Duck, Turkey Vulture, Broad-winged Hawk, Eastern Screech-owl, Whip-poor-will, Belted Kingfisher, Yellow-bellied Sapsucker, Pileated Woodpecker, Chestnut-sided Warbler, Mourning Warbler, Scarlet Tanager and Eastern Towhee.”* (Stantec 2004, page 17, paragraph 6)

The habitat locations for these birds is not referenced, consequently it is not possible to assess the impact of the proposed quarry. Three of the twelve referenced bird species (chestnut-sided warbler, mourning warbler, eastern towhee) are known to inhabit successional habitats and may therefore be directly impacted by habitat removal associated with operation of the proposed quarry.

The Hamilton Naturalists’ Club (HNC) has identified rare or locally significant species within the City through the Nature Counts Hamilton Natural Areas Inventory (Dwyer 2003). When determining local rarity, the HNC considered number of occurrences, population trends, and life cycle/ecological requirements/sensitivity. Species are ranked as common, uncommon or rare in Hamilton. Use of the HNC list would have resulted in the addition of regionally rare and uncommon bird species. For example, the blue-winged warbler (uncommon) and magnolia warbler (rare) are listed in Appendix B Wildlife List (Stantec 2004); two additional birds known to inhabit successional habitats and, therefore, likely to be impacted by the proposed quarry. There are also confirmed breeding records in the Halton area in the ongoing Ontario Breeding Bird Atlas for the magnolia warbler, the black-throated green warbler, black and white warbler, and pine siskin.

#### **4.8 CONCERN 12. ASSESSMENT OF AMPHIBIANS AND SPECIES AT RISK**

Report “Section 3.4.3 Amphibians, Reptiles and Mammals” includes the pickerel frog as one of seven “common” amphibian species recorded (Stantec 2004, page 17, paragraph 8). Following Dwyer (2003), the pickerel frog is listed as rare in the City of Hamilton. The location of where the pickerel frog was recorded is not provided in the report, but would be necessary to assess impacts.

Further, the statement that there is no habitat for endangered or threatened species is premature pending resolution of the identity of salamanders present on the site and on contiguous properties. The pure Jefferson salamander is threatened both nationally and provincially and the polyploid salamanders of the Jefferson complex are provincially rare where the jeffersonianum genome dominates. Part II of this report also speaks to documented habitat for redbreasted dace.

#### **4.9 CONCERN 13. GREENBELT PLAN REQUIREMENTS**

**The Preliminary Level 2 Natural Environment report does not speak to nor address Greenbelt Plan requirements at all.** These include elements such as:

- “demonstration of how the Water Resource System will be protected or enhanced”
- “demonstration of how connectivity between key features will be maintained or enhanced”
- “demonstration of how immediate habitat replacement with equivalent habitat on another part of the site or on adjacent lands” can be achieved
- “demonstration of no negative effects on key natural heritage or key hydrologic features or their functions”.

There is no discussion of significant woodland or significant habitat determinations, impacts, avoidance and/or mitigation. Equally, there is no discussion or demonstration of requirements related to infrastructure implications, including increased vehicular traffic, across the ecological linkages in and around the subject property.

## **5.0 SUMMARY CONCLUSIONS**

The “*Preliminary Level 2 Natural Environment Report*” submitted by Stantec in support of the Lowndes Holdings Corp. application to the City of Hamilton fails to thoroughly document the natural heritage features and functions on the site and contiguous properties, is insufficient in detail, contains many technical errors within the work completed to date, lacks comprehensive analysis of environmental impacts, and does not provide meaningful mitigation measures. It is our opinion, therefore, that the report cannot be used to assess the proponent’s application as it has not provided a comprehensive outline and analysis of the significant natural heritage features and functions present within and adjacent to the Lowndes Holdings Corp. properties nor has it considered all of the adverse impacts associated with open pit mining below the water table.

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## 6.0 REFERENCES

- Conservation Halton. 2002. Bronte Creek Watershed Study. Prepared by the staff of Conservation Halton. Includes main report and 7 appendices.
- Dwyer, J.K.(ed.). 2003. Nature Counts Project. Hamilton Natural Areas Inventory. Prepared by Hamilton Naturalists' Club in partnership with the City of Hamilton and the Hamilton Conservation Authority. Includes two volumes, volume one summary reports of study sites and volume two species checklists for study sites.
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## 7.0 Appendix A

*“None of the plant species encountered **to date** is considered significant at national or provincial levels”* (Stantec 2004, page 12, paragraph 1, bold used for emphasis)

*“This appendix [referring to Appendix A Plant List] and related discussions will be expanded in the final report, based on further ongoing seasonal botanical surveys.”* (Stantec 2004, page 2 paragraph 2)

*“A few components of the aquatic field program are still underway.”* (Stantec 2004, page 8 paragraph 3)

*“Results [referring to analysis of benthic samples] are expected from the lab later this summer.”* (Stantec 2004, page 8 paragraph 3)

*“The data obtained from these loggers [referring to temperature dataloggers] will be analysed this fall.”* (Stantec 2004, page 8 paragraph 3)

*“The vegetation communities recognized on the site, based on the Ecological Land Classification (ELC) system, are shown on Figure 3 (**some additional delineations/updates are ongoing at the time of writing of this report**)”* (Stantec 2004, page 11, paragraph 4, bold used for emphasis).

*“The list [referring to the plant list] is being revised and expanded to incorporate additional field data collected in 2004.”* (Stantec 2004, page 12, paragraph 2).

*“Conclusions regarding the potential presence of significant woodlands on these lands will be drawn with the accumulation of additional field data during the summer of 2004”* (Stantec 2004, page 29, paragraph 4)

*“The potential definition of these areas as significant wildlife habitat is subject to ongoing analysis this summer”* (Stantec 2004, page 29, paragraph 7)

*“Further predictions [of environmental impacts] will be offered with the completion of data gathering and synthesis and with the presentation of more detailed hydrogeological results and operational plans”* (Stantec 2004, page 31, paragraph 3)

*“Table 2 summarizes potential effects, mitigation and net effects predicted at this preliminary stage of assessment.”* (Stantec 2004, page 31, paragraph 3)

*“Additional monitoring and testing will more accurately determine the degree of potential impact to the wetland.”* (Stantec 2004, page 31, paragraph 4)

*“Additional monitoring and testing will more accurately determine the degree of potential impact to the watercourses.”* (Stantec 2004, page 31, paragraph 5)

*“The proposed direct removal of portions of the PSW and ESA, will not affect habitat for any rare floral or faunal species (**given field results to date**).”* (Stantec 2004, page 32 paragraph 8, bold used for emphasis)