

CITY OF HAMILTON

MOTION

Council Date: April 15, 2009

MOVED BY: COUNCILLOR MCCARTHY.....

SECONDED BY:

WHEREAS St Marys Cement submitted an Aggregate Resources Act application to the Ministry of Natural Resources (MNR) on January 22, 2009, resubmitted on February 13, 2009, and the application was found to be complete by MNR on March 3, 2009.

AND WHEREAS the Ministry of Natural Resources has the legislative authority to approve or deny Aggregate Licenses.

AND WHEREAS there is currently an application for an Aggregate License by St. Marys Cement in Flamborough.

AND WHEREAS the McGuinty government has passed numerous initiatives to monitor, enforce and protect the environment. With legislation in place that is meant to secure the protection of areas such as we have in Flamborough against assault of it's environmentally protected features.

AND WHEREAS Section 12.1 of the Aggregate Resources Act states:

12. (1) In considering whether a license should be issued or refused, the Minister or the Board, as the case may be, shall have regard to,

- (a) the effect of the operation of the pit or quarry on the environment;
- (b) the effect of the operation of the pit or quarry on nearby communities;
- (c) any comments provided by a municipality in which the site is located;
- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- (e) any possible effects on ground and surface water resources;
- (f) any possible effects of the operation of the pit or quarry on agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;
- (i) the quality and quantity of the aggregate on the site;
- (j) the applicant's history of compliance with this Act and the regulations, if a licence or permit has previously been issued to the applicant under this Act or a predecessor of this Act; and

(k) such other matters as are considered appropriate. R.S.O. 1990, c. A.8, s. 12; 1996, c. 30, s. 9 (1, 2); 2002, c. 17, Sched. F, Table.

AND WHEREAS all parameters listed under 12.1 apply to this proponent's application and are clearly irresolvable.

AND WHEREAS St Marys Cement is refusing to redo groundwater testing with respect to Phase 1 (1 of 3 Phases) of the Permit to Take Water (PTTW) as ordered by the Ministry of the Environment (MOE), stating in a January 22, 2009 letter that they (St Marys Cement) "do not believe that any further data will be gained by repeating Phase 1 of the pumping test and will not be repeating the Phase."

AND WHEREAS the MOE in a letter to St. Marys Cement dated March 5, 2009 state: "It is the ministry position that hydrogeological studies completed to date have not provided information to conclude that the proposed Groundwater Recirculation System is an acceptable mitigation strategy for this site. Further pumping tests are necessary to demonstrate that the proposed Groundwater Recirculation System for this site will protect the quality and quantity of both groundwater and surface water." (NOTE: St. Marys Cement's letter indicates that they will not be carrying out any further testing under the mandate of the PTTW. Accordingly, unless they advise the MOE otherwise by March 20, 2009, the permit will be revoked.)

AND WHEREAS MOE has stated that completion of necessary studies (which includes the pump tests) is required prior to consideration of or any PTTW being issued for a quarry operation.

AND WHEREAS the City's Medical Officer of Health, Dr. Elizabeth Richardson, has stated in a letter to the Ministry of Natural Resources dated February 10, 2009, that Public Health Services has health concerns regarding the operation of a limestone quarry as proposed by an *Aggregate Resources Act* Application made by CBM St Marys Cement, and that these concerns are due to a potential risk for adverse impacts upon groundwater quantity and quality that could be caused by the quarry.

AND WHEREAS the Region of Halton's Medical Officer of Health, Dr. Bob Nosal, has stated in a letter to the Ministry of Natural Resources dated February 20, 2009, that the Halton Regional Health Department has health concerns regarding the operation of a limestone quarry as proposed by an *Aggregate Resources Act* Application made by CBM St. Marys Cement, and that these concerns are due to a potential risk for adverse impacts upon groundwater quantity and quality that could be caused by the quarry.

AND WHEREAS St Marys Cement stated in the Fall 2007 Newsletter #6 that "St Marys is committed to successfully demonstrating our GRS method here in Flamborough before this system is implemented or added as a component to our final application." And, with the refusal to complete the MOE ordered test phases, no mitigation system, of any kind, has been tested on-site to evaluate if the unacceptable impacts of quarry dewatering can be managed.

AND WHEREAS this proposed quarry falls within our community's significant recharge area and Well Head Protection Area (WHPA). The new *Clean Water Act* promises protection for our drinking water right at its source. The law promises to prevent problems before they happen. The Greenbelt Plan prohibits extending lake-based water systems to our communities. If something goes wrong, there is no Plan B for our drinking water. Protection of water must be the first priority and take precedence over a proposed quarry.

AND WHEREAS the City of Hamilton unanimously approved a Motion on February 27, 2008 with respect to the Carlisle groundwater-based municipal system, with the following resolution:

That the City of Hamilton

- (a) bring to the attention of the Provincial Government its concerns regarding potential adverse impacts on the Carlisle groundwater-based municipal drinking water system
- (b) request the Provincial Government, through the Premier and the Ontario Minister of the Environment, to fully consider the potential ramifications of the proposed development and
- (c) before any provincial permits or approvals are issued for the proposed St Marys Quarry, the province should require a formal review by the Halton/Hamilton Source Protection Authority, as part of the local source protection process.

AND WHEREAS in the City of Hamilton Public Health Services letter dated October 26, 2007 to the MOE, as per Item 3 (b) (i), (ii), (iii) and 3 (c), the City of Hamilton's hydro-geologist requested special testing of organics because of identified contaminants within the area.

AND WHEREAS there has been no Official Plan Amendment change or rezoning approved by the City of Hamilton for the lands. The lands are currently zoned as "Agriculture and Conservation Management". The proposed use is not a permitted use.

AND WHEREAS the proposed site falls completely within the Natural Heritage System of Ontario's Greenbelt, the area of highest environmental value. Provincially Significant Wetlands, significant woodlands, and other nationally, provincially, regionally and municipally designated natural features and species at risk, or their habitats, are present on and around the site.

AND WHEREAS St Marys Cement has failed to complete vital impact studies requested by Municipal, Regional and Provincial bodies with respect to issues such as the Permit to Take Water, Transportation Study and related public information meetings, and the company was found negligent in the amount of \$30,000 payable to the City of Hamilton for damages to our roads because of unauthorized road core sampling,

AND WHEREAS St Marys Cement has suddenly shifted the process, abandoning their current work with the Municipal Government, and moving on to the Provincial Government level, showing complete disregard for the welfare of our community.

AND WHEREAS the timeframe provided to allow municipal and agency technical experts to digest, review, and submit detailed comments on the material is very short (45 days), a significant disadvantage is imposed to commenting bodies.

AND WHEREAS St Marys Cement have yet to make any successful inroads towards their application to establish what would be the 8th largest quarry in Canada in an area that is already established residential, agricultural and conservation lands.

THEREFORE BE IT RESOLVED:

That the Council of the City of Hamilton:

- (a) Objects to the Aggregate License Application submitted by St. Mary's Cement.
- (b) Call upon the Minister of Natural Resources under the authority granted to her by Section 12.1 of the Aggregate Resources Act RSO 1990 to refuse the aggregate license submitted by St. Mary's Cement
- (c) Circulate this resolution to Premier Dalton McGuinty, Conservation Halton and the municipalities of Milton, Burlington and Halton so that those Councils may consider a similar resolution.