

**Environment and Land Tribunals  
Ontario**  
Environmental Review Tribunal

**Tribunaux de l'environnement et de  
l'aménagement du territoire Ontario**  
Tribunal de l'environnement



655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Telephone: (416) 212-6349  
Toll Free: 1-866-448-2248  
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Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

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### **NOTICE TO ALL OWNERS OF NEARBY LANDS:**

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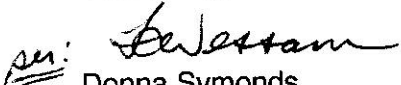
Enclosed is a Notice of Hearing for an appeal before the Environmental Review Tribunal. You are being notified of this hearing because you are an owner of land near the facility or property in question.

It is the Tribunal's policy to notify all owners of nearby lands to allow interested persons or groups of individuals the opportunity to participate at the Hearing. **You are not required to attend the hearing**, but if you do choose to participate, there are four ways in which you may do so. They are as follows:

1. You may attend the hearing and observe the proceedings, but not actively participate.
2. You may request the hearing panel to grant you **presenter** status at the hearing. As a presenter, you will be able to provide your testimony under oath or solemn affirmation at the hearing, and be cross-examined by all parties. You may also file written material in addition to your oral presentation.
3. You may request that the Tribunal grant you **participant** status at the hearing. As a participant, you will be able to provide your testimony under oath or solemn affirmation at the hearing, and be cross-examined by all parties. You may also file written material in addition to your oral presentation. Participants, however, are expected to attend each day of the hearing so that any submissions made to the Tribunal will reflect the evidence given by all the parties, and others, during the course of the entire hearing.
4. You may request that the Tribunal grant you **party** status. This means that you have the right to present evidence through witnesses, cross-examine witnesses and make submissions. Parties are often represented by legal counsel. Parties are expected to attend all hearing days, including days allocated to final argument.

Should you wish to participate in these proceedings, you should immediately write, fax or email the Case Manager to indicate your intention. You should visit the Tribunal's website to obtain a copy of the Rules of Practice and Practice Directions of the Environmental Review Tribunal. The Tribunal's website is located at [www.ert.gov.on.ca](http://www.ert.gov.on.ca). If you do not have Internet access, a copy of the Rules of Practice and Practice Directions will be mailed upon request.

Yours truly,

  
Donna Symonds  
(Acting) Tribunal Secretary

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**Case No.: 10-031**

## **NOTICE OF PRELIMINARY HEARING**

In the matter of an appeal by St. Marys Cement Inc. filed June 11, 2010 for a Hearing before the Environmental Review Tribunal pursuant to section 100 of the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, as amended with respect to a Notice of Refusal Permit to Take Water No. 3708-862GHB issued by the Director, Ministry of the Environment, on June 3, 2010 under section 34 of the *Ontario Water Resources Act*, regarding an application for the taking of water from a site located at Lot 3, Concession 11, E. Flamborough, in the City of Hamilton, Ontario.

The purpose of the Hearing is to enable the Tribunal to determine whether it shall confirm, alter or revoke the Director's Decision that is the subject matter of the Hearing, and direct the Director to take such action as the Tribunal considers appropriate. The Tribunal may substitute its opinion for that of the Director.

### **Preliminary Hearing:**

A Preliminary Hearing will be conducted by the Hearing Panel on **Thursday, August 26, 2010 at 10:00 a.m.** in the **Council Chambers, Flamborough Town Hall, 163 Dundas Street East, Waterdown, Ontario**. The purpose of the Preliminary Hearing will be: to receive submissions from groups and individuals who are seeking Party, Participant or Presenter status and to rule on them; to identify the preliminary issues to be considered at the main Hearing; to establish the pre-Hearing process (information and document exchange, meetings of Parties and their legal and technical representatives, scoping of issues, and planning of the main Hearing); to deal with any other preliminary matters that may be raised by Parties, Participants or Presenters; to establish dates for the main Hearing; and to finalize and issue procedural orders.

### **How to Participate:**

Groups or individuals interested in participating in the Hearing may express either their private concerns or their concerns regarding the public interest. They may make a request to participate as a Presenter, Participant or Party.

The Tribunal will consider requests for Party, Participant, or Presenter status at the Preliminary Hearing. Anyone who wishes to request that the Tribunal grant them Party, Participant or

Presenter status should notify the Case Manager in writing (or electronically) **by 4:00 p.m. on August 19, 2010**. Please contact the Case Manager for further details.

A request for status may also be made at the Hearing provided that the proceeding has not terminated in the interim (whether due to a settlement, withdrawal by the Appellant, or revocation of the decision that is the subject of the proceeding). Please contact the Case Manager for further information regarding the details of the scheduled Hearing.

There will be no reporting services provided by the Environmental Review Tribunal for the Hearing. If Parties consider that they require a transcript of the proceedings they may obtain such service at their own expense.

If you require the Hearing to be translated into French, please advise the Case Manager as soon as you receive this notice. Collect calls are accepted.

Si vous avez besoin de services en français, veuillez appeler le Tribunal de l'environnement au 416-314-4600. Les appels à frais virés sont acceptés.


We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

**TAKE NOTICE** that the Preliminary Hearing date is **peremptory** to all Parties, Participants and Presenters. If you do not attend at this Hearing and identify yourself to the Tribunal, the Environmental Review Tribunal may proceed in your absence and you may not receive any further notice in these proceedings. The Tribunal may make orders with respect to the conduct of the proceeding which will be binding on all present and future Parties.

Please note that any information or documents you provide to the Tribunal in relation to this case become part of a public record which is open to inspection by any person, unless a document is marked "confidential" by order of the Tribunal. For more information, please consult Rules 202 and 203 of the Tribunal's Rules of Practice.

For more information, please review the appropriate legislation, the Rules of Practice and Practice Directions of the Environmental Review Tribunal, and "A Guide to Appeals under the *Clean Water Act, 2006*, the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, and the *Safe Drinking Water Act, 2002*", all of which are available on the Tribunal's website at [www.ert.gov.on.ca](http://www.ert.gov.on.ca).

**DATED at TORONTO, this 12<sup>th</sup> day of July, 2010.**

  
 per: Donna Symonds  
 (Acting) Tribunal Secretary

**Information Contact:**

Tracee Wessam, Case Manager  
Environmental Review Tribunal  
655 Bay Street, Suite 1500  
Toronto, Ontario M5G 1E5  
Case Manager's Email: [tracee.wessam@ontario.ca](mailto:tracee.wessam@ontario.ca)  
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