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Prorogation heats up quarry battle

By Dianne Cornish, REVIEW STAFF

St Marys Cement (SMC) says it will subpoena Ontario Premier Dalton McGuinty and cabinet ministers Jim Bradley and Rick Bartolucci to show that the Liberal government's move to kill the proposed Flamborough Quarry was politically motivated.

The plan to establish a quarry on a 158-hectare (380-acre) site on 11th Concession Road East at Milborough Line has been fraught with strong emotions and comments from both sides of the issue, resulting in several legal challenges including a judicial review launched by the aggregate company to overturn the government's decision to freeze the zoning on the quarry lands and to declare a provincial interest in the site.



File photo by Gary Yokoyama • MWMG

Both moves represent a significant roadblock to SMC's quest for an aggregate licence for the site.

In a press release issued last week, the company says the decision by McGuinty to prorogue the Legislature "presents the first opportunity" for the premier and ministers to be compelled to testify about the government's decisions, which, it charged, were to save the seat of Liberal MPP Ted McMeekin who represents the riding of Ancaster-Dundas-Flamborough-Westdale where the site of the proposed quarry is located.

Parliamentary privilege protects sitting members from being subpoenaed while the Legislature is in session or on holiday, but that protection doesn't apply during prorogation.

"Dalton McGuinty's team chose to interfere with a well-defined aggregate licensing process in advance of the 2011 provincial election in a way that is prejudicial to St Marys Cement," John Moroz, the company's vice-president and general manager, said in the release.

"The judicial review will help determine whether the government acted improperly in cancelling a quarry in the riding of Liberal MPP Ted McMeekin in advance of the 2011 provincial election," the release stated.

In September, the Ontario government attempted to have SMC's application for a judicial review dismissed but a judge with the Ontario Divisional Court refused to grant the dismissal. The province has since appealed the judge's decision and a panel of judges is tentatively scheduled to hear arguments on Dec. 4.

McMeekin denies that the government's decisions to block the quarry were political opportunism. "It has nothing to do with saving my seat and everything to do with representing my constituents," he said in an interview with CBC Hamilton last week. He also argued that a group of Flamborough residents, along with the municipalities of Hamilton and Milton, the Region of Halton and local health units are opposed to the quarry and it was in response to their opposition that the government declared the zoning freeze and provincial interest.

McMeekin scoffed at the 'seat-saver' accusation, calling it "nonsense" and noting that in the 2011 provincial election, the ADFW riding had the highest percentage of voter turnout in the province and he was successful in winning all but one poll in Dundas as well as 70 per cent of the polls in Ancaster, where the quarry was not an issue for voters.

"I'm at the point where, frankly, I don't care what they (St Marys) do," said McMeekin. "The reality is they are a publicly-traded company that wants to bully their way into my community and I just won't have any of it."



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The anti-quarry group, Friends of Rural Communities and the Environment (FORCE) was equally defiant, with chair Graham Flint saying FORCE isn't concerned about who is called to testify at the judicial review because "we didn't do anything wrong."

Flint said the group petitioned the provincial government to help block the quarry because the province had the authority to do it and the citizens' group was thrilled when the government acted.

"Ted (McMeekin) has been a good representative of constituents' concerns," he added. Flint also stressed that opposition to the quarry goes beyond political party lines, with Halton MPP Ted Chudleigh (Conservative), provincial NDP party leader Andrea Horwath and ADFW MP David Sweet (Conservative) all indicating their opposition to the plan.

He characterized the latest move by SMC as "political posturing" and noted that as of Monday (Nov. 5), a week following the company's media release, no subpoenas have been issued to McGuinty or the two ministers mentioned.

Evidence

With St Marys being given the nod to proceed with the judicial review about three weeks ago, Moroz said the next step is for the company to gather evidence that will help demonstrate that the Liberal government's decision to kill the quarry was "politically motivated."

Despite an exhaustive FOI (Freedom of Information) request for government documents concerning the province's action, "We can't find a single shred of evidence that they made this decision based on technical or scientific reasons," he said.

The records provided did not contain any scientific evidence that the quarry would compromise the watershed, water quality or quantity, wetlands, or the natural environment, he said, nor did they contain any scientific reason to deny St Marys the right to "a fair and impartial hearing" on its quarry application.

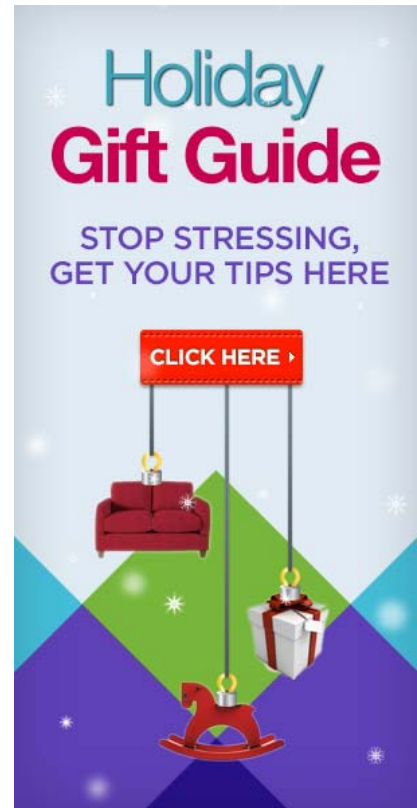
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