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## SMC withdraws permit appeal

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St Marys Cement (SMC) has dropped its appeal of the Ministry of Environment's refusal four months ago to approve its permit to take water (PTTW) application.

In a letter Tuesday, the aggregate company gave notice of its decision to the Environmental Review Tribunal (ERT) which has jurisdiction over the appeal. The action effectively cancels a hearing by the tribunal that was to take place in Waterdown next Wednesday.

Flamborough councillor Margaret McCarthy, a steadfast opponent to St Marys plans to establish a quarry in northeast Flamborough, said the company's withdrawal means that it cannot proceed with planned water pump tests on the proposed site at 11th Concession Road East and Milborough Line.

"They cannot ignore the MZO (Ministerial Zoning Order) which has put a freeze on the lands," she said, alluding to an order announced in April by then-Minister of Municipal Affairs and Housing Jim Bradley that froze the current zoning on the site, effectively closing the door to putting a quarry there.

Even though SMC has since asked the Minister to revoke the order and turn the matter over to the Ontario Municipal Board (OMB) for a decision, McCarthy maintains that the MZO will prevail and the aggregate company has no chance of overturning the order.

A few months ago, the local councillor got unanimous approval from her Hamilton city council colleagues not to proceed with St Marys application to the city for a rezoning and Official Plan Amendment in light of the MZO. City councillors also recently gave unanimous support to McCarthy's motion to send city staff to the ERT hearing to safeguard the city's interests.

When news of the dropped appeal reached FORCE (Friends of Rural Communities and the Environment) chair Graham Flint Tuesday afternoon, he confided he was "kind of shocked" by the turn of events. On September 29, the group submitted a 700-page affidavit to the aggregate company outlining its plans to present a motion at next week's hearing calling for adjournment of the proceedings on the grounds that it was premature for a decision to be made on the PTTW appeal because the OMB has not yet convened to decide whether the government acted appropriately in declaring the MZO and also has not ruled whether it wants information that the pump tests would provide.

Flint said SMC was supposed to reply to its affidavit on Wednesday of this week.

"I really don't know why they chose to withdraw their appeal," he said.

He said FORCE is considering asking the ERT to award its costs in preparing the affidavit, which he estimated at \$40,000.

The letter from St Marys offered no reason for the company's decision. A phone call to a company spokesperson Tuesday was not returned before the Review's press deadline.



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