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## St Marys seeks judicial review of Ministerial Zoning Order

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St Marys Cement has abandoned its appeal to the Ontario Municipal Board (OMB), deciding instead to take its quest for a quarry in Flamborough to court.

The aggregate company, which wants to establish a 150-hectare limestone quarry on 11 Concession Road East and Milborough Line, announced last Thursday that it will submit an application for a judicial review to the divisional court of the Ontario Superior Court of Justice in an effort to quash the Ontario government's ministerial zoning order of April 2010 and the government's recently announced provincial declaration of interest.

In a brief statement issued last Thursday, St Marys reiterated its stance that the quarry "would provide local jobs and investment, be operated to the highest environmental standards, and would serve the needs for high quality aggregate to build schools, hospitals and roads in southern Ontario at a reasonable cost to taxpayers."

Last month, St Marys officials were involved in OMB pre-hearing sessions in Hamilton, but at the April 29 meeting, just eight days after the provincial government declared its interest in the quarry, the company told government officials and other participants in the sessions, including representatives of the City of Hamilton and members of the anti-quarry group, FORCE (Friends of Rural Communities and the Environment), of their plans to take the issue to court.

The provincial interest announcement means the government could override the OMB's decision if the board were to rule in the company's favour to have the zoning freeze lifted. The Minister of Municipal Affairs and Housing put the zoning freeze on the site just over a year ago.

In last week's announcement, St Marys said it wouldn't elaborate further on its decision to launch a judicial review "at this time," but also expressed confidence that the legal system would rule in its favour.

The Ontario Ministry of Municipal Affairs and Housing has been named in the legal proceedings, although there is opportunity for other interested parties to take part.

FORCE chair Graham Flint said the citizens' group is "disappointed but not really surprised" by the aggregate company's decision, especially since he doesn't believe the company has exhausted its appeal rights before the OMB. While the declaration of a provincial interest has only been used sparingly in the past, Flint noted that it doesn't necessarily mean that the government will overrule the OMB's decision.

On the other hand, he believes that the fact- and science-based concerns related to the project, such as groundwater and environmental protection, will win out in the end. Adding that the proposed quarry development has been under review for the past seven years, Flint said the arguments against it have won widespread support from staff and elected officials in Hamilton, Burlington, Milton and the Region of Halton, as well as from their medical officers of health, Conservation Halton, the Niagara Escarpment Commission, the Ministry of Natural Resources and the Ministry of the Environment.

FORCE disagrees with any suggestion that questions whether the provincial government acted inappropriately or improperly with the quarry issue, Flint said. He questioned how a community could ever protect itself from such a development if its government is prevented from getting involved.

While hesitant to speak publicly about the St Marys' decision because the matter is "before the courts," MPP Ted McMeekin (Ancaster-Dundas-Flamborough-Westdale) said he makes no apologies for "fighting for my community" in lobbying the government to take a strong stand against the quarry.

"The company has legal rights and I don't want to prejudice that," he said while at the same time reaffirming his conviction "to stop this inappropriate and intrusive development in my community."

Flint said correspondence between St Marys and FORCE indicates that the judicial review will likely be heard this fall or early next spring.



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