

Ministry of the Environment

West-Central Region
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Ministère de l'Environnement

Direction régionale du Centre-Ouest
Secteur du Soutien Technique
12e étage
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Hamilton ON L8P 4Y7
Télécopieur: (905)521-7820
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June 3, 2010

St. Marys Cement Inc.
55 Industrial St
Toronto, Ontario, M4G 3W9
Canada

Attention: Melanie Horton

Dear Ms. Horton:

RE: Notice of Refusal number 3708-862GHB
Lot: 3, Concession: 11, E. Flamborough
Hamilton

Reference Number 7115-85TLN5

Please find attached the above referenced Notice of Refusal for the Permit to Take Water application received by this ministry on May 25, 2010.

The application fee provided with the application of \$3000. will be returned.

Yours truly,

A handwritten signature in cursive script that reads "Carl Slater".

Carl Slater
Director, Section 34, Ontario Water Resources Act
West Central Region

File Storage Number:

Ministry of the Environment
West Central Region

119 King Street West
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Ministère de l'Environnement
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**NOTICE OF REFUSAL
PERMIT TO TAKE WATER
NUMBER 3708-862GHB**

Reference Number 7115-85TLN5

St. Marys Cement Inc.
55 Industrial St
Toronto, Ontario, M4G 3W9
Canada

Lot 3, Concession 11, E. Flamborough
Hamilton

In accordance with the Section 34 of the Ontario Water Resources Act, I have refused the application for a Permit to Take Water dated May 25, 2010, for the taking of water from PW A, PW B, PW C.

The reason(s) for this refusal are as follows:

On April 12, 2010, the Minister of Municipal Affairs and Housing made an Order under the Planning Act, which states, in part:

"1. This Order applies to the land in the City of Hamilton, formerly in the Town of Flamborough, described as part of Lot 1 and Lots 2 and 3 in Concession 11, East Flamborough, and further identified as Property Identifier Numbers 17525-0164 (LT), 17525-0158 (LT) and 17525-0157 (LT).

2. Every use of the land described in section 1, and every erection, location or use of any building or structure on the land described in section 1, is prohibited, except,

(a) uses, buildings and structures lawfully in existence on the date this Order comes into force; and

(b) the use of any land, building or structure that was permitted by the applicable zoning by-laws on the date this Order comes into force."

Section 48 of the Planning Act states:

"Despite the provisions of any other general or special Act, a licence, permit, approval or permission shall not be issued or granted nor any utility or service provided by a utilities distributor or a public or Crown agency in respect of any land, building or structure where the proposed use of the land or the erection or proposed use of the building or structure would be in contravention of section 46 or of an order made under section 47 or of a by-law passed by a planning board under section 34 or 38."

A quarry is not a permitted use under the current zoning. The application for a pumping test is in respect of a quarry.

In consideration of the Order, section 48 of the Planning Act and the existing permitted land use, the requested permit cannot be issued.

*In accordance with Section 100 of the **Ontario Water Resources Act**, you may by written Notice served upon me and the Environmental Review Tribunal within 15 days after receipt of this Notice, require a hearing by the Tribunal. Section 101 of the **Ontario Water Resources Act**, provides that the Notice requiring the hearing shall state:*

1. The portions of this Notice of Refusal in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

In addition to these legal requirements, the Notice requiring a hearing should also include:

1. The name of the appellant;
2. The address of the appellant;
3. The number of this Notice of Refusal;
4. The date of this Notice of Refusal;
5. The name of the Director;
6. The municipality within which the site is located;

And the Notice requiring a hearing should be signed and dated by the appellant.

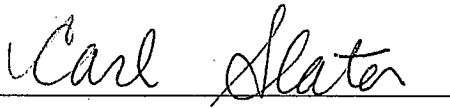
Notice requiring a hearing must be served upon:

*The Secretary
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto ON
M5G 1E5*

AND

*The Director, Section 34
Ministry of the Environment
119 King Street West, 12th floor
Hamilton, Ontario.
L8P 4Y7*

Dated at Hamilton this 3rd day of June, 2010



Carl Slater
Director, Section 34, Ontario Water Resources Act