

**Environmental Review Tribunal**

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[www.ert.gov.on.ca](http://www.ert.gov.on.ca)

**Tribunal de l'environnement**

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**FAX COVER SHEET**

**TO:** **David Crocker**  
Davis LLP  
(416) 777-7433

**AND TO:** **Isabelle O'Connor**  
Legal Services Branch, Ministry of the Environment  
(416) 314-6579

**AND TO:** **The Director, Ministry of the Environment, Hamilton**  
(905) 521-7820

**AND TO:** **John Moroz, Vice-President and General Manager, CMB Aggregates**  
St. Mary's Cement Inc. (Canada)  
(416) 696-4435

**AND TO:** **Gord Miller**  
Environmental Commissioner of Ontario  
(416) 325-3370

**FROM:** **Evangeline Berlic**  
Case Manager

**RE:** **Case No.: 08-053 – Friends of Rural Communities and the Environment  
v. Director, Ministry of the Environment**

**DATE:** July 18, 2008

**NO. OF PAGES:** 3 (including this page)

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July 18, 2008

David Crocker  
Davis LLP  
1 First Canadian Place  
Suite 5600  
100 King Street West  
Toronto, ON M5X 1E2

Dear Mr. Crocker:

**Re: Friends of Rural Communities and the Environment v. Director, Ministry of the Environment**

**Case No.: 08-053**

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The Tribunal is in receipt of your application on behalf of Friends of Rural Communities and the Environment ("FORCE"), seeking Leave to Appeal a Permit to Take Water issued to St. Mary's Cement Inc. (Canada).

The decision on Instrument on the Environmental Bill of Rights Registry, EBR Registry Number IA06E1293 states:

"No Leave to Appeal provisions are provided on this decision. The permit that was issued is for less than a year and therefore, is no longer considered a "classified Instrument" under the *Environmental Bill of Rights*.

Section 3.1 of Ontario Regulation 681/94 classifies Permit to Take water as follows:

"1. A proposal for a Permit under Section 34 of the *Ontario Water Resources Act* that would authorize the taking of water over a period of one year or more, except a proposal for a Permit to Take Water only for the purpose of irrigation of agricultural crops." "

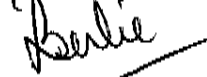
It appears that the Tribunal may not have jurisdiction to consider the application and invites the Parties to make submissions on the issue of the Tribunal's jurisdiction to consider the application for Leave to Appeal.

The deadline for FORCE to file submissions with the Tribunal and copy them to the Director and St. Mary's Cement Inc. (Canada) is **Friday, July 25, 2008**. The Director and St. Mary's Cement Inc. (Canada) may file submissions in response with the Tribunal and provide them to FORCE by **Wednesday, July 30, 2008**. FORCE may file with the Tribunal and provide to the Director and

St. Mary's Cement Inc. (Canada) any reply submissions by **Friday, August 1, 2008**.

The Tribunal needs to address the issue of jurisdiction before it can address the Applicant's motion to seek a stay of the Permit to Take Water.

Yours truly,



Evangeline Berlie  
Case Manager

cc: St. Mary's Cement Inc. (Canada)  
Isabelle O'Connor, Counsel, MOE Legal Services Branch  
Director, Ministry of the Environment, Hamilton  
Gord Miller, Environmental Commissioner of Ontario