

## Not-for-Profit/Corporate Applicant

Friends of Rural Communities and the Environment

Name of Corporation

Graham Flint, Chair

Name and Position of Corporate Officer

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## Declaration of Incorporation in Ontario

Friends of Rural Communities and the Environment (FORCE) is a

Name of Corporation

Canadian federal corporation in good standing, carrying on business with its head office in Ontario, established by articles of incorporation on June 28, 2004.

Year

February 19, 2007

Date

Graham Flint, Chair

Name of Officer and Position

File # 424711-6

Corporate Number



\_\_\_\_\_  
Signature

## Questions

### **1.(b) I request a Review of the need for a *new* policy, Act, or regulation.**

#### **Description of Policy, Act, or Regulation:**

FORCE is asking and believes that two instruments warrant review for consideration of a *new* policy, amendment to the Act and/or regulation, as appropriate, to provide an early screening/evaluation mechanism for applications. They are the *Aggregate Resources Act* (ARA) and the *Planning Act*. This request may apply to each statute individually but also applies to them collectively in cases such as an aggregate development application where approvals are required under both approvals regimes.

### **2. I believe that the ministry should undertake my Review to protect the environment because:**

The application review processes associated with the *Aggregate Resources Act* and the *Planning Act*, particularly as they pertain to Class 2 aggregate development proposals and to Official Plan Amendments (OPA), and more notably in combination, are of many years duration and are very detailed. Both have historically been subject to additional years of duration by virtue of appeals to the Ontario Municipal Board (OMB) or the Consolidated Hearings Board (CHB). Decisions of appellate tribunals are also subject, under certain circumstances, to appeal to the tribunal for review, to the courts on points of law, and to the Lieutenant Governor-in-Council. As recent examples, from the aggregate development case files of which we are most familiar, the process is taking some 10 years or more. Protect Our Water Resources and the Environment (P.O.W.E.R.), the Coalition on the Niagara Escarpment (CONE) and, by appeal hearing stage, 3 individual citizens were involved with the Dufferin Aggregates Milton quarry expansion application. The Dufferin expansion proposal began back in 1996, the Joint Board decision was released in June 2005, and an appeal of the Joint Board decision was only dismissed by the Lieutenant Governor-in-Council in December 2006. The James Dick Rockfort proposal, involving the Coalition of Concerned Citizens of Caledon, commenced around 1997. A pre-hearing before the OMB was held in October 2006 and the final hearing is not slated to *begin* until September 29, 2008. The application in our case was submitted in September 2004 and as of winter 2007 is still at the very early process stages in terms of OPA and zoning by-law changes. No ARA license application has been submitted.

It can certainly be questioned how well the existing processes serve the protection and enhancement of our environment and quality land use planning, on a case by case and cumulative basis. We merely note that some community stakeholder and government and agency staff have questioned the impact of development proposals on maintaining the continuous natural environment on the Escarpment, the Greenbelt, and linked natural spaces; the reliance on engineering solutions, in perpetuity, to maintain the environment; and the acceptability of land exchanges/additions to Plan Areas, among other principles. It can also equally be argued that the processes are counter to

participatory democracy. The processes are difficult and complex from a policy and technical perspective, long and arduous from a time perspective and require intensive investment of human, financial and other resources not just from the proponent, municipal and provincial jurisdictions/agencies but also from the public citizenry. For these individuals, the time, human and financial contributions come from personal hours and from after tax dollars. This is relevant in a statutory and policy environment which no longer provides for intervenor funding.

While recent legislative reforms to the *Planning Act* have begun to address the issue of whether an application is “complete” or not (providing municipalities with statutory/regulatory criteria to make that determination) and to ensure greater consistency between the application before the municipal council and any appellate tribunal, FORCE believes that there is still an inherent flaw in both of the statutes and their accompanying regulatory, policy and implementation regimes. That is, there is no early review mechanism through which municipalities and/or provincial agencies can undertake a coarse assessment or screening evaluation of a proposal’s attributes and determine if the proposal should proceed further through the existing approvals process or not. This would be an evaluation based on clear planning tests, where the attributes, in isolation or collectively, could be measured for consistency or “failure” with against local and/or provincial law, regulatory, policy and plan requirements. The present regime affords no such early review mechanism or opportunity to screen the appropriateness of the development application. Indeed, one could argue that there is an inherent presumption of development in the current regime where applications are simply amended until they gain approval. We believe that an early review mechanism would ensure adoption of an environment/conservation first principle and would provide greater certainty for all stakeholders – proponents, governments/agencies, and the public.

It is possible to develop and implement such an early screening mechanism. Clear and objective attribute criteria, evaluation methodologies and due process would still be necessary components of the early screening mechanism. We would not support an approach that was simply frivolous and vexatious. An early screening mechanism would enable decision-making jurisdictions to “kick the tires” of the application, determine “fit”, and measure attributes against some key tests. If the application does not meet test hurdles or has “failure attributes”, it could be screened out and would not proceed into the longer approval processes. If the application appears to meet the test hurdles or if it is unclear, the proposal would go forward into the longer approval processes. It should be noted that going forward into the longer approval processes does not constitute a predetermined outcome or automatic approval by decision-making agencies.

### **3. The following is a summary of the evidence that supports my Application for Review.**

The evidence provided below is specific to a local case – the St Marys CBM proposed Flamborough Quarry. We are not asking the Commissioner to make a decision on the specific case, per se. It is, after all, already in early stages of the municipal OPA and zoning land use planning processes with a pending *Aggregate Resources Act* (ARA) application. It is, however, illustrative of the process involved for citizen groups, as well

as other stakeholders, and the incongruity of the proposed development to the local area and to provincial and municipal law points to the value of and need for an early front-end screening evaluation mechanism to determine if a development proposal should be pursued at all, given the taxpayer and public citizen investments required.

We have broken our evidentiary discussion into two main headings:

- A. The Top-line Case for an Early Review Mechanism and
- B. The Detailed Story of FORCE and the proposed Flamborough Quarry.

The former is self-titled in that it provides a top-line case for an early review mechanism by delineating the inappropriateness of the application as compared to key provincial and municipal regulatory regimes. The latter is again self-titled in that it provides the detailed case on both the level of involvement now required of citizens and an evaluation of the application compared to key attributes. Both speak to the need and justification for an early review mechanism. We apologize in advance for any duplication of argument but felt that both a top-line and a detailed body of evidence would be helpful for review of the application request.

### **The Top-line Case for an Early Review Mechanism**

Residents in our communities have questioned the appropriateness of the proposed development for apparent “failures” or inconsistencies with key provincial and municipal regulatory regimes – our surrogate core planning tests for early screening. These include:

- Hydrogeology impacts on our drinking water versus the protections promised by the *Clean Water Act, 2006*:
  - The legislation is premised on the precautionary principle. It is a science-based approach that encourages caution and prevention where the risks are significant, impacts are difficult to predict or estimate, and where they are challenging to mitigate. A fractured shale/bedrock setting, such as the one in our area, is acknowledged by academics and engineering practitioners to be a setting of such modeling and methodological challenges.
  - The initial focus of the Act is on protection of municipal systems, although there are provisions for inclusion of other “systems, and on key features such as Wellhead Protection Areas (WHPA) and vulnerable recharge areas. It applies to both existing approved activities and to future developments.
  - In this area, groundwater is the only source of potable water – the Carlisle municipal system and private wells for homes, schools, a child care facility, farms and businesses are dependent upon it. It is an area with known and historic water quantity and quality issues. A pilot test for the proposed mitigation system proposes to draw about 4 times more than the daily draw of Carlisle. The dewatering associated with an operational development could be some 5 to 7 times the daily draw of Carlisle. The mitigation system proposed is without long term operational precedent, anywhere in the world.

- The proposed development is within the WHPA 2 year Time of Travel (TOT) capture zone and the recharge area of the Carlisle municipal WHPAs.
- The Minister's Source Water Technical Experts' Committee Report – *Watershed-based Source Protection Planning, Science-based Decision-making for Protecting Ontario's Drinking Water Resources: A Threats Assessment Framework* (November 2004) provides guidance specific to aggregate development:
  - Quarries are identified as a land use activity which threatens drinking water sources and are sufficiently serious to be of provincial concern (Table 3.1)
  - The primary issue with quarries is one of aquifer vulnerability in that they provide a direct pathway to drinking water supplies. Any quarry found within a 25 year TOT WHPA must be assessed for risk of contamination of the drinking water supply
  - The risk of new quarries and final quarry land use should be assessed according to new standards of municipal wells and/or quarries should be restricted within the 5 year TOT capture zone (Table 6.2)
  - The 2 year TOT is defined as the Pathogen Concern Zone where pathogens should be minimized to protect the drinking water supply (Table 6.3)
- Planning and threats assessment in this source protection area is just in its early stages. A Source Protection Committee has not even been established, let alone a Source Protection Plan approved.
- Impacts on fragile natural and water resource features and threatened and vulnerable species compared to the protections promised in the Greenbelt Plan, 2005, Species at Risk legislation, Biodiversity Strategies, Natural Spaces Initiatives, etc.:
  - The site of the proposed development falls completely within the Natural Heritage System of the Greenbelt Plan and the specific application was transitioned under the Plan as O.Reg. 61/05.
  - The Plan steps up the protection of key natural and hydrological features by calling for no negative impacts (and enhancements) and the maintenance of connectivity between features. The site contains Provincially Significant Wetland complexes, significant woodlands, potential Species at Risk, and water resource features, at a minimum, which carry specific protection and enhancement requirements under the plan. It is contiguous to natural spaces within the Greenbelt that carry designations, such as Areas of Natural and Scientific Interest (ANSIs), and host key natural, water resource and species features.
  - The duty to protect groundwater carries a greater burden in the Greenbelt. The Greenbelt Plan places explicit limitations on lake based water extensions and expansions. The Plan states clearly in section 4.2.2.2 that where settlements do not currently have Great Lake or Lake Simcoe based water and sewage services, *extensions to, or expansions of existing Great Lake or Lake Simcoe based services to such settlements are not permitted*. There is a public health caveat provided – unless such servicing is required to address failed individual on-site sewage or water services, or to ensure the protection of public health where it has been determined by a medical officer of health (or health

- authority) that there is a public health concern associated with existing services within the settlement.
- The Greenbelt Plan is equally directed at the protection and preservation of agricultural lands. The proposed development would represent a direct and permanent loss of hundreds of acres of farmland, if one includes both the initial proposal and the announced expansion. In addition, the proposed rehabilitation to a lake facility ensures that the loss would be permanent. The loss would involve more than land; viability of agriculture also involves a critical mass of farms and related support operations (equipment and other suppliers, veterinarians, etc.) such that each loss of farm land and operation to another non-farm use erodes that balance. Further, the potential negative impacts on remaining farm operations would be significant.
  - Incompatibility with existing municipal plans and approved developments:
    - Official Plans for the former Township of Flamborough and Region of Hamilton provided for the establishment of the Rural Settlement Area (RSA) of Carlisle, now the largest RSA in the City of Hamilton and the approved developments of Glenron, Stonebury, Stonebrook Estates, and Timber Run. Stonebrook Estates, immediately adjacent to the proposed development, was appealed to the OMB and was permitted to proceed, as a consequence of a settlement. Combined with the residency at approved Lawson Park and individual residences on the concessions, these areas approximate RSA fragmentation and density.
    - Municipal land use planning and provincial planning and capital processes have resulted in the establishment and operation of Balaclava Public School, Our Lady of Mount Carmel Catholic elementary school, and Our Lady of Mount Carmel child care facility. These facilities are located one concession south of the proposed development and school bus routes for these facilities mirror proposed haul route options. Similarly schools in the private system as well as those of the Halton Public and Catholic Boards are serviced on the proposed haul route options.
    - There are no appropriate haul routes – the site is not in close proximity to 400 series highways via established truck routes. The country concessions here are narrow, with no shoulders, numerous grade changes, and are not structurally designed for such volume or loads. Most carry reduced loads and seasonal restrictions.
    - The current designation of the site is Rural and it is zoned Agriculture and Conservation Management. An appendix to the then Official Plans identifies potential for sand and gravel *not* stone quarry on the site and requires an OPA/zoning by-law process for consideration of land use change. The identification of the resource is a guide around which municipalities can plan and potentially protect for future use. It does not mean that resource extraction is approved or imply an absolute intention to extract in light of other land use constraints.
    - The former Town of Flamborough’s OP states “It is the intent of Council that the predominant land use in the Rural Area shall be Agriculture and directly related issues”. The City of Hamilton has confirmed Agriculture as one of its strategic priorities through its Vision 2020, GRIDS and related processes. Agriculture represents a \$1 billion contributor to the Hamilton economy.

- The former Town of Flamborough's OP specifies that the following will be evaluated upon application for a land use change to Industrial Extractive:
  - Compatibility with existing and planned land uses
  - Demonstration of the need and benefit for additional aggregate resource extraction
  - Potential impacts on the environment
  - Potential impacts to the transportation system
  - Capability of the lands for agricultural uses and the rehabilitation to agricultural use and
  - Other such matters deemed necessary.

In our view, the current aggregate development application seems inappropriate, if not outrageous, in light of any one and, certainly collectively, all of these laws, regulations, policies and plans. These kinds of cases speak to the need for an early review mechanism to screen out such applications.

### **The Detailed Story of FORCE and the proposed Flamborough Quarry**

The material provided below is a more detailed version of our case history. The first subsection speaks to the extent of involvement necessary by citizens today despite the elected and public institutions designed to represent the public interest. One can certainly question the degree to which this is appropriate in a parliamentary, and even participatory democracy, and whether the pendulum has swung too far. The second subsection speaks to the core attributes – hydrogeology, natural features, land use planning and transportation and whether the application is appropriate in that context. It also documents the studies and reports requested as part of this EBR Application for Review process to show that the case is premised on a solid scientific and factual footing. The final subsection is a concluding section which summarizes our views on the need and justification for an early review mechanism for applications on the basis of both citizen involvement and application/attribute analysis.

#### **1. The Degree of Citizen Involvement in Development Application Review Today**

FORCE is involved with issues raised by the approvals process for an aggregate development application advanced by St Marys CBM, formerly Lowndes Holdings Corp. St Marys CBM, is owned and controlled by Votorantim, a private Brazilian conglomerate, with 2005 net revenues of some \$10 billion Canadian. The proponent has assembled 380+ acres of land near the northeast boundary of Hamilton, in the former Township of East Flamborough. The proponent has stated that drilling on the property, which was originally acquired in 2003 and comprises Lots 2, 3, and Part of Lot 1 on Concession 11 East, indicates that a large body of amabel dolostone underlays the property.

The proponent has applied for land use planning changes to permit development of the property for a limestone quarry. Corporate and planning documentation from the proponent indicates a Category 2, Class A quarry operation which would extract aggregate material from below the established groundwater table. Projected annual production tonnages would make this development the 8<sup>th</sup> largest aggregate development in the country.

{[http://www.stopthequarry.ca/ResourceRoom/Charts/news\\_rank.php](http://www.stopthequarry.ca/ResourceRoom/Charts/news_rank.php) to visit the Resource Room, Charts, Quarry Ranking.} An application for Official Plan and Zoning

Amendments was filed with the City of Hamilton on September 20, 2004. The Ontario Ministry of Natural Resources has not yet received an application for license under the Aggregates Resources Act (as of February 9, 2007).  
{<http://www.stopthequarry.ca/StMarys/Lowndes.php> to visit Lowndes Holdings Corp. and scroll to application.}

The City of Hamilton received the application in September 2004, hired an Aggregates Advisor (Steven Rowe) in December 2004, retained a Peer Review Team during Spring 2005, initiated the Peer Review Process during summer 2005, and has established a Combined Aggregate Review Team (CART) involving relevant provincial, municipal and related agencies. A preliminary Process Flow Chart has been developed by the City to guide review and decision-making. We remain early in the process of OPA/zoning application review. {  
[http://www.stopthequarry.ca/Process/FAQ\\_HamiltonOntarioProcess.php](http://www.stopthequarry.ca/Process/FAQ_HamiltonOntarioProcess.php) to visit The Process & Approvals, Hamilton & Ontario FAQs, Who decides if the proposed quarry application gets approved and what land uses are allowed in a municipality?} An exact timeline is difficult to predict but we are likely up to 2 years away from a City of Hamilton decision and years away from an appellate decision. ARA application timing is unknown although the proponent has previously indicated it will be during the OPA/Zoning process.

The Community first learned about the proposed aggregate development in May 2004. The local Councillor, Margaret McCarthy, held a public information meeting on June 3, 2004 where the original proponent and his consultant team presented a top-line summary of the proposed development. Community concerns were immediate and widespread, leading to the creation of FORCE.

Friends of Rural Communities and the Environment, FORCE, is a federally registered not for profit corporation. It is a citizen-based advocacy group with hundreds of supporters in Campbellville, Kilbride, Mountsberg, Freelon, and Carlisle – communities located in rural Milton, Burlington, and Hamilton. FORCE was founded in June 2004 – involving the community selection of a Steering Committee at a large scale Community meeting. The Community has decided to raise its voice through a single entity called FORCE. FORCE was mandated to represent the community interest, intervene on issues raised by the application and to protect our natural and built environments in the face of this proposed large-scale, below the established groundwater table, aggregate development in the Northeast Flamborough portion of the amalgamated City of Hamilton. The name, Friends of Rural Communities and the Environment was selected to clearly identify who we are and to speak positively about what we want to protect. Furthermore, the acronym, FORCE, was consistent with the mental and moral strength that we would muster to consistently and positively direct attention to the issues of the proposed quarry.

FORCE's support is broad based and supporters participate at a variety of levels. We have distributed well over 1,000 Lawn Signs which are prominently displayed throughout the area. We have over 500 people subscribe to our Email updates. We have over 700 unique visitors per month to our website. We had over 400 people out for a City of Hamilton information meeting in April 2006 and over 200 people out for our second annual FORCE update meeting a few weeks later during spring 2006. We have over 60 volunteers active in door to door information distribution and financial canvassing. And



finally, the Community is putting their money where their outrage is. Each year, we have met or exceeded a target of \$100,000 to meet expenses and build an OMB war chest. We have had over 350 of our neighbours – either through their households or businesses – each commit an average of just under \$500 per year toward funding this opposition. Over 200 cyclists participated in the first annual Tour de FORCE during September 2006 and some 200 attendees contributed over \$20,000 at the FORCE Gala & Silent Auction in November 2006.

FORCE's outreach and association extends beyond community residents to area businesses, farm and agricultural operations, the Hamilton Wentworth Federation of Agriculture, the elementary schools and child care facility located one concession south of the proposed development, the Hamilton Wentworth District School Board, and the Hamilton Wentworth Catholic District School Board. FORCE is a member of the Ontario Greenbelt Alliance. We network with equestrian, cycling and motorcycling clubs as well as other third party validators such as the Hamilton Naturalists. Environmental Defence Canada has reviewed our case and found it worthy of its support.

Our goal is to effectively raise issues of concern with this application and ultimately, to have this application denied – both for the OPA and Zoning amendments, as well as for the ARA licence. In order to achieve this objective, FORCE has undertaken the following steps, to date:

- FORCE was officially incorporated as a federal not-for-profit corporation on June 28, 2004 by Letters Patent. This gave the organization a separate legal identity which enables it to appear on behalf of the community in legal proceedings.
- We made a conscious decision to intervene early, substantively and professionally in order to establish a credible role and to help shape the approach to the application's review at the municipal and provincial levels prior to any hearing before an administrative tribunal such as the OMB or CHB.
- We worked with counsel to develop an initial legal strategy, to understand the legal/policy framework, and to launch our policy advocacy campaign, including Greenbelt activities. We have retained ongoing legal counsel.
- Based on the evolving public policy framework at the provincial level, FORCE advocated for change in specific policy areas (Greenbelt Act and Plan, Places to Grow Act and Greater Golden Horseshoe Management Plan, OMB Reform, and Clean Water Act). We made both independent submissions and interventions as well as participated in collective undertakings through membership in the Ontario Greenbelt Alliance.
- We have retained experts in the fields of hydrogeology and natural environment whose assessments will be shared in the next segment of this response. Their work has been supported by a retained GIS expert. We have also mobilized credentialed experts and other experienced professionals within the community who have volunteered to participate in the community analysis of the proponent's application and whose initial work product is also available for review.
- We have built solid working relationships and open communications with the staff and Councillors at the City of Hamilton, Halton Region, City of Burlington, Town of Milton, and Conservation Halton. Their early concerns reflect those of the community and are provided for review under Government & Agencies where the subsections reflect the respective municipal jurisdictions. We are working to establish similar working relationships at the provincial level. The provincial

response to the proponent's preliminary work is found under Government & Agencies, Province of Ontario subsection.

- We have supported these efforts through a “ground war” of community education, outreach and fundraising. Community education and outreach have included set-up of a website ([www.StopTheQuarry.ca](http://www.StopTheQuarry.ca)), community information meetings, periodic newsbriefs and topic flyers, annual report distribution, distribution of lawn signs, placement of 4x8 road signs, earned media, sponsored paid advertising, and fun/free events (i.e. Holiday Family Skate). Fundraising has included fundraising meetings, door to door canvass, mail-in canvass, and special events (i.e. quilt raffle by the Mountsberg Women's Institute, Tour de FORCE bike rally, FORCE Gala & Silent Auction, and a planned Community Fun Fair). Each of these activities requires many hours of volunteer time and resources.

An early review mechanism to screen out applications which do not meet core planning tests and are not appropriate for an area would serve to scope the degree of citizen involvement now required in the application review process.

## **2. Attributes and the Appropriateness of the Development Application**

The scope and scale of the proposed amabel dolostone aggregate development is significant. The application Planning Report includes the following highlights. The initial property is 380 acres and the proponent has already announced its intention to expand to an adjacent 150 acres which the company also holds. Annual production is forecast at 3 million tonnes per year – making this undertaking, if approved, the 8<sup>th</sup> largest quarry in Canada - for some 30 years. The proposed expansion could double this timeframe. The depth of the proposed operation is some 40 meters. Operations are described as open for 200 days per year, up to 6 days per week, from 6 a.m. to 8 p.m. Truck volume is forecast at 570 trucks per day at peak or over 1,000 truck trips per day. These operational realities are not consistent with the local area or with the provincial and municipal regulatory regime.

FORCE has submitted that the application should be denied because of the individual and collective significance of:

- the hydrogeology of the area
- environmentally significant features
- preservation of agricultural lands and
- impact on the existing rural residential, business, and school communities.

The proposed aggregate development is located in the Northeast corner of the former Town of Flamborough, within the new City of Hamilton and borders the Milton/Region of Halton boundary. The rural settlement areas of Carlisle, Freulton, Campbellville, and Kilbride, along with the hamlet of Mountsberg – in rural Hamilton, Milton and Burlington - are all located within some 5 kilometres of the proposed site. We note that the MNR Aggregate Resource Inventory Papers (1984) indicated that by the mid 1980s, “...access to much of the resource has been adversely affected by fragmentation, environmental sensitivity, and rural residential development, including proximity to the Settlement of Carlisle.” Carlisle is Hamilton's largest Rural Settlement Area. Since then, more rural, estate and high-density residential developments have been approved and

developed. Now, over 270 residences in the 4 established subdivisions of Glenron, Timber Run, Stonebrook (approved under OMB mediation), Stonebury, as well as Lawson Park are located less than 1000m from the site. This number does not include numerous rural residences on the nearby concessions nor already approved lots in the balance of the Stonebrook development. Two Hamilton elementary schools and a child care facility are located one concession south of the proposed development with school bus routes for these schools as well as Halton and private schools mirroring the proposed haul routes. The area is also an active farming community in both Hamilton and Halton. The narrow concession roads serve as a network for our communities – they are not haul routes for aggregate loaded fleet. We are reaching the cultural carrying capacity in this landscape and trade-offs are necessary. {Please see attachment Carlisle Quarry Briefing – Winter 2007 for maps and top-line issue highlights.} {Please also visit <http://www.stopthequarry.ca/TheCase/communityissues.php> for the Community Issues Report.} Incompatibility with locally approved land uses is one grounds for the application to be screened out.

The hydrogeological impact of the proposed development would be broad and significant and is perhaps the most serious grounds for finding the application wanting in the regulatory regime. As characterized by the City of Hamilton Groundwater Resources Characterization and Wellhead Protection Study, the site includes the recharge area for the Carlisle Municipal Wellheads and is within the 2 year Time of Travel zone for the capture zone and wellhead protection areas. Under current circumstances, Carlisle already experiences water quantity issues {Please see <http://www.stopthequarry.ca/ResourceRoom/ReportsandDocuments/Summer2005WaterAdvertorials.php> to visit Resource Room, Relevant Reports & Documents, Carlisle Water Advertorials and Community Case, Hydrogeology, Your Water and the Carlisle Quarry}. Private rural wells and communal systems are within the zone of influence. The site also contains Provincially Significant Wetlands and 1<sup>st</sup> Order streams which are part of the Bronte Creek watershed complex. The proponent's own consultants, Gartner Lee Limited, state that the development will have "significant and unacceptable impact" if unmitigated {Please see <http://www.stopthequarry.ca/Lowndes/lowndes.php#application> to review the Lowndes Holdings Corp. Application, Volume 1, Draft Level 2 Hydrogeological Assessment}. The proposed development would have a large drawdown of up to 3.6 million gallons/day which could be felt up to 2.5 km away, thereby impacting the Carlisle municipal wells, private communal and individual residential wells, and the wetlands. The Groundwater Recirculation System (GRS) mitigation scheme proposed is unproven and ineffective. {Please visit <http://www.stopthequarry.ca/TheCase/Hydrogeology/hydrogeology.php> to review Community Case, Hydrogeology, INTERA (Raven) Report and FORCE Review of Draft Level 2 Hydrogeology Report} These concerns are echoed and complemented by the work of the involved governments and agencies. Preliminary comments and concerns from the other municipalities, Conservation Halton and the Province of Ontario regarding the application are available. {Please visit <http://www.stopthequarry.ca/government> for Government & Agencies and review the documents provided in the jurisdictional subsections.} In particular, we note the comments from the Ministry of the Environment enclosed with the Ministry of Municipal Affairs "one window" circulation. We also draw your attention to the conclusions of Jagger Himms Limited's Geological and Hydrogeological December 2005 Peer Review available in the latest postings (December 21, 2005) at [www.myHamilton.ca/myhamilton/cityandgovernment/citydepartments/planningecdev/devlopment/lowndes+quarry.htm](http://www.myHamilton.ca/myhamilton/cityandgovernment/citydepartments/planningecdev/devlopment/lowndes+quarry.htm). We have also refer you to documents from FORCE, its

experts, and relevant municipal and other agencies (Hamilton and Conservation Halton) pertaining to an October 2006 Permit to Take Water application by St Marys to test the proposed Groundwater Recirculation System. Significant concerns have been raised in terms of content, timing, and process especially in light of the volumes of water and the lack of proven track record anywhere in the world for the planned system. {Visit <http://www.stopthequarry.ca/CommunitySpirit/Action/GRSTesting.php> and scroll down to FORCE Submits Comments to MOE on St Mary's PTTW Application}.

The property contains significant provincially, regionally and municipally designated natural features that contribute to the biological diversity and ecological integrity of the site and the broader region. The site itself and contiguous properties lie completely within the Natural Heritage System of the Greenbelt and include 11 Environmentally Sensitive Areas, 5 Provincially and Regionally Significant Wetland complexes, 5 Areas of Natural and Scientific Interest, and 1 Core Natural Area. The quality of the interior forest core suggests significant woodland and requires assessment. It also provides critical winter habitat for white-tailed deer. The regional linkages are rich and complex. Experts have documented that few remaining areas of Southern Ontario have this combination of natural attributes and remaining forest cover.

On-site, there are 6 sensitive headwater/ 1<sup>st</sup> Order streams and tributaries as part of the Bronte Creek watershed. Warm and cold water fisheries are supported. MNR has recorded Redside dace in Mountsberg Creek. Areas of historic and existing habitat represent opportunities to rehabilitate the species to its former range and such habitat represents critical habitat to be protected under the Species at Risk Act. Conservation Halton has indicated that the proponent's statement that there is no habitat for endangered or threatened amphibian species is also premature pending resolution of the identity of salamanders present on the site and on contiguous properties. The pure Jefferson salamander is threatened both nationally and provincially and the polypoid salamanders of the Jefferson complex are provincially rare where the jeffersonianum genome dominates. The pickerel frog was recorded on site and as of a 2003 inventory, it is listed as rare in the City of Hamilton. Further flora and fauna descriptions can be found in expert reports. { Please visit <http://www.stopthequarry.ca/TheCase/environmental.php> for Community Case, Environment and Natural Features' Preliminary Landscape Report and the Natural Environment and Aquatic Biology critique reports. You may also want to visit <http://www.stopthequarry.ca/Government/ConservationHalton.php> for that agency's feedback. Natural features and the protections afforded them are also at odds with the application. As the Commissioner himself asked in a January 6, 2005 Op Ed in the Toronto Star, do the aggregates we need have to come from new sites on the Niagara Escarpment, the Oak Ridges Moraine or the Greenbelt? The equation must include the costs of the environmental impacts and land use conflicts associated with aggregate extraction.

Updates on information and documentation pertaining to these attributes, and the inappropriateness of the application in their context, will be made available to your office as the case evolves while this Application for Review sits before you. An early review mechanism would provide the opportunity to review applications, such as this one, and to screen out applications which are clearly inconsistent with or in contravention of key attribute tenets or core tests premised on existing provincial and municipal regulatory regimes.

### **3. Conclusion**

FORCE is asking for consideration of the need for and workability of an early review mechanism for land use planning, aggregate extraction, and other related applications. Were such a mechanism in place, we believe that our case would be clear cut. More broadly from a public policy perspective, however, we believe that the key benefits would be an environment/conservation first priority and greater certainty for all stakeholders (proponent, governments and agencies, and citizens). The co-benefits would be improvements in the efficiency and efficacy of the application review process, better balance in terms of the involvement level of institutions representing the broad public interest and the involvement of the public citizenry, and hopefully a legacy of a different landscape. Like all planning and environmental processes and decisions, as the Commissioner has written, "...it is our choice, our legacy, and future generations will judge us by it."