

January 27 , 2009

Hon. Donna Cansfield
Minister of Natural Resources
Minister's Office, MNR
Room 6630, Whitney Block
99 Wellesley Street West
TORONTO, Ontario
M7A 1W3



Dear Minister Cansfield,

Re: St Marys CBM ARA application

As Chair and Spokesperson of Friends of Rural Communities and the Environment (FORCE), a citizen-based advocacy group, I am writing to you, on behalf of our communities, to table a process question and important request with you and your ministry.

We understand that St Marys CBM has filed an application for a license under the *Aggregate Resources Act* (ARA) with your ministry, as of January 22nd 2009. The license would be for a Category 2, Class A quarry operation which would extract aggregate material from below the established groundwater table. The proposed site is made up of some 380+ acres of land near the northeast boundary of Hamilton, in the former Township of East Flamborough, comprising Lots 2, 3, and Part of Lot 1 on Concession 11 East, as well as acreage on an adjacent land parcel on Milborough Line.

We are interested in understanding the exercise of your powers conferred by s.11(1) of the ARA, to determine if the application for license complies with the Act and Regulations. Could you please advise us of the actual process, timeline, and procedures that your ministry will be using under the ARA to review the application and to make this assessment? Specifically, we are asking, that this review by the ministry be comprehensive, and not merely an 'inventory checklist' to ensure the presence of requisite documents.

We are making this request because, as you may be aware, the Ministry of the Environment informed the company on October 30th 2008 that the results of its Phase 1 pumping test, conducted during summer 2008, were not acceptable. The data was deemed unacceptable because the ministry felt that the data was not sufficiently reliable to help characterize the aquifer or to provide a baseline against which the effects of testing a proposed mitigation system(s) could be compared. A similar conclusion with respect to aquifer characterization had been reached regarding November 2004 pump test results and is documented in 2005 correspondence. As such, MOE informed St Marys that it needed to redo the phase 1 pumping test before it could proceed to testing its proposed Groundwater Recirculation System (GRS).

In a letter from St Marys Cement to the MOE, on January 22nd 2009, the company indicated that it “does not believe that any further data will be gained by repeating Phase 1 of the pumping test and therefore will not be repeating the Phase.” By MOE’s own account, the data underpinning the company’s hydrogeology technical report will be unacceptable. And, the proposed mitigation system, already in question for its design, long term operating performance, and application in this climate, among other issues, has not and will not be tested, based on the company’s above noted position.

We can only surmise that the lack of reliable data and the failure to test the mitigation system may also make it more difficult for the City of Hamilton, and adjacent municipalities, to assess the land use planning change requests before them, in the form of Official Plan (OPA) and Zoning by-law (ZAC) changes.

Accurate hydrogeology work is critically important to us. In our area, groundwater is the only source of potable water. The Carlisle municipal drinking water system, which serves some 3,000 people, and the private individual and communal wells for homes, schools, farms and businesses all use groundwater as the source for drinking water and other uses. We have had both documented quantity and quality challenges for years.

The *Clean Water Act* promises protection for Wellhead Protection (WHPA) and significant recharge areas, among other key areas. It is based on the principle of prevention first. The Act is designed to address existing and *future* proposed activities.

The Minister of the Environment’s Technical Experts Committee established a Threats Assessment Framework as part of its November 2004 report. It identified land use activities that threaten drinking water sources and are sufficiently serious to be of provincial concern (Table 3.1). Pits, quarries, and mines were listed as human-made pathways to the aquifer in this category. Their primary issue is “vulnerability” as the direct pathways are made to current or future potential drinking water systems. The Committee provided examples of Risk Management approaches for threats of provincial concern (Table 6.2). It recommended that pits/quarries and their final land disposition be assessed according to new municipal well standards and be restricted within the 5 year Time of Travel (TOT). The Committee also recommended that two pathogen management zones should be delineated within the WHPA (recommendation 46). A 100 metre pathogen security area and a 2 year Time of Travel (TOT) zone should be considered as the area of concern with respect to bacteriological/pathogenic contaminants.

We note that the proposed St Marys quarry falls within the 2 year TOT to the Carlisle municipal drinking water system. It is closer than the 5 year TOT recommended by the Technical Expert Committee. It also falls within one of the key areas recommended as a bacteriological and pathogen management zone.

The land base of many of our communities fall within the Greenbelt Plan as does the proposed development in question. In fact, the proposed development is situated entirely within the Natural Heritage System of the Greenbelt, the area of highest environmental value. The Greenbelt Plan includes a number of permissive and protective policies. For example, it permits consideration of aggregate developments, under certain conditions, and it promises increased protections for water resources. What is particularly relevant in this case is that the Greenbelt Plan prohibits new or extensions to existing lake-based water systems. This means that there is no Plan B for the City of Hamilton or this community if its groundwater based drinking water system is adversely impacted in terms of quantity and/or quality.

We thank you for your assistance on this section 11(1) compliance assessment, with particular attention to hydrogeology, and also look forward to being informed of the lead reviewer/contact in your ministry for the application.

Thank you, in advance, for your response.

Respectfully submitted,

A handwritten signature in black ink that reads "G. Flint". The signature is written in a cursive style with a long horizontal line underneath the name.

Graham Flint BAsC, P. Eng
Chair & Spokesperson

Cc: Hon. Dalton McGuinty, Premier
Hon. John Gerretsen, Minister of the Environment
Hon. Ted McMeekin, MPP
Mayor Fred Eisenberger
Councillor Margaret McCarthy