

## PTTW under attack

Dianne Cornish

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The decision of the Ontario Ministry of the Environment (MOE) to issue a temporary permit to take water (PTTW) to St. Marys Cement this week had all the drama of a daytime television series.

First, on Monday, the day before the ministry announced its decision, Flamborough councillor Margaret McCarthy contacted the MOE's Hamilton office to outline her misgivings about the validity of tests for soil contamination conducted on the quarry site 12 years ago by a private laboratory. After quickly assuring McCarthy that subsequent tests done by a government lab had findings consistent with those of the private company, the ministry went ahead and issued the PTTW on Tuesday. Then within minutes of the approval, the anti-quarry group known as FORCE (Friends of Rural Communities and the Environment) declared that it would appeal the decision to the Environmental Review Tribunal (ERT). Finally, in another turn of events, FORCE members discovered that the permit isn't subject to appeal because it covers a period of less than a year.

The permit, granted for 356 days, falls just nine days short of being eligible for appeal.

"We're alarmed and disappointed," FORCE chair Graham Flint said Wednesday. "We feel that an appeal to get justice and protect our environmental rights has been taken away from us." Noting that the group is exploring its legal options, he added, "We might ask the ERT to hear our appeal anyway notwithstanding the regulations."

Flint said he doesn't believe the ministry intentionally set out to thwart the appeal process in this case.

While acknowledging that most pumping test permits to take water expire in just weeks or months, Carl Slater, manager of technical support services at the ministry's Hamilton office, said the reason for the extended period for the St. Marys permit is "because the ministry imposed significant conditions on reporting and sharing information" between the pump tests. There will be three tests, each to be done over six days.

McCarthy, who has spearheaded the anti-quarry fight along with Flint, applauded FORCE's decision to continue fighting to have the PTTW decision overturned.

She alleges that the proposed quarry on 11th Concession Road East near Milborough Line is on "a contaminated site with a fragile aquifer that is my community's sole source of water..." She defends her charges by pointing to what she alleges are suspect soil sample findings given in 1996 by a private laboratory that was subsequently closed down after being convicted in 2004 of providing fraudulent test results to clients. The lab, Fine Analysis Laboratories Limited of Hamilton, tested 12 soil samples from the quarry property.

There is no documentation showing that the tests led to the charges laid against the lab by Hamilton Police, but one of the chemists who signed the report for soil tests conducted on the quarry site was charged with conspiracy to issue a forged document as a result of the investigation.

When questioned Monday about McCarthy's misgivings about the accuracy of test results on the St. Marys site and whether her allegations would have an impact on the PTTW application, the MOE's West Central Region's office in Hamilton responded to the Review via e-mail stating: "Our records indicate that ministry sampling and subsequent analysis performed by our government laboratory was also undertaken in the same area, and the government analysis was consistent with the lab results reported by Fine Analysis in the September 1996 report."

The ministry's response also noted that the overburden and groundwater on the site have been repeatedly sampled and three cleanups have been done since 1996, occurring in 1998, 2005 and this year. "In all cases, no evidence of hazardous PCB contamination was ever detected in any of the samples submitted for analysis from any of the labs involved."

But McCarthy remains unconvinced and questions why so many cleanups were necessary. She said her confidence in the MOE has been shaken. "This whole 'don't worry, be happy' motto of the MOE is farcical," she said.

St. Marys applied for a temporary PTTW in September 2006 to test a groundwater recirculation system on the site in northeast Flamborough. Company officials maintain that the system will mitigate the proposed quarry's impacts on local groundwater if a quarry is permitted to locate on the property.

But FORCE members and other opponents to the plan argue that the test could potentially have an adverse effect on the quality and quantity of groundwater that feeds private water wells in the area as well as a municipal water system that serves Carlisle residents.

The permit says tests will be phased with written approval required from Slater before the second and third

rounds.

The permit holder cannot exceed taking three million litres per day during the first test and 4.5 million litres daily during each of the subsequent tests. "There are extensive monitoring and reporting conditions" involved in the testing, Slater said.



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