



Hamilton

Mailing Address:
77 James Street North, Suite 400
Hamilton, Ontario
Canada L8R 2K3
www.hamilton.ca

Planning and Economic Development Department
General Manager's Office
Physical Address: 77 James Street North, 4th Floor
Phone: 905-546-4339 Fax: 905-546-4364

May 20, 2009

Ms. Melanie Horton (E-mail: communityinfo@stmaryscbm.com)
St. Marys Cement Inc.
55 Industrial Street
Toronto, Ontario
M4G 3W9

Ms. Diane Schwier (E-mail: [E-mail: MNRFQA@ontario.ca](mailto:MNRFQA@ontario.ca))
Ministry of Natural Resources
Guelph District
1 Stone Road West
Guelph, Ontario
N1G 4Y2

Dear Ms. Horton & Ms. Schwier:

**Re: Application for a Category 2 Class "A" Licence under the Aggregate Resources Act
St. Marys Cement Inc. (Canada) – Flamborough Quarry
Part of Lots 1, 2 and 3, Concession 11
City of Hamilton (Former Township of East Flamborough)**

Further to the resolution passed by Hamilton City Council on April 15, 2009 (attached), the City of Hamilton has reviewed the materials submitted by St. Marys Cement Inc. (Canada) in support of their application for a Category 2 Class A Licence under the Aggregate Resources Act (ARA) for a pit and quarry. In addition, draft peer reviews have been completed by the CART (Combined Aggregate Review Team) Peer Review Team of the Site Plans, the Hydrogeological Level 2, Hydrological Level 2, and Natural Environment Level 2 Technical Reports, the Noise Impact Study, Blasting Impact Assessment and Quarry Bench Height Evaluation, and the Haul Route information in the Summary Statement. The City and its consultants are in the process of finalizing these draft peer reviews and they will be forwarded to St. Marys Cement Inc. (Canada) and the Ministry when they are complete. The final peer reviews will provide more detailed explanations of the objections listed below, and it is noted that further issues may also arise based on the CART process and responses received to the issues summarized below. Based on deficiencies identified to date regarding the submitted material, the City of Hamilton objects to the application by St. Marys Cement Inc. (Canada) for the reasons outlined in City Council's resolution of April 15, 2009, and those matters as summarized in more detail below:

- A number of issues in relation to groundwater resources and the ability of the proponent's mitigation measures to protect Provincially Significant Wetlands (PSWs)

and municipal, commercial and domestic well water supplies are unresolved. The concerns identified with regard to the Hydrogeological Level 2 report include: questions surrounding the adequacy of site characterization and the proponent’s modeling approach; potential water balance concerns; lack of testing and detail regarding the Groundwater Recirculation System (GRS); concerns regarding the effectiveness of a proposed passive barrier wall at the north end of the proposed excavation; the proposal for a water retaining structure at the southern perimeter of the quarry; heavy reliance on an Adaptive Management Plan (AMP) that has not been fully developed; insufficient monitoring; the long term maintenance and operation of the GRS system; and lack of detail regarding the proposed rehabilitation plan and filling of the quarry excavation with water. The City should be involved in any future design or development of a GRS or AMP undertaken by the applicant in support of the ARA application.

- The concerns with the Hydrological Level 2 report include: potential impacts on the PSW and the proponent’s description of linkages between wetlands and groundwater seeps; potential erosion and flooding caused by groundwater discharge; uncertainty surrounding the potential effectiveness of the GRS and its impacts on the PSW and local tributaries; and potential water quality concerns.
- The concerns with the Natural Environment Level 2 report include: deficiencies regarding terrestrial and aquatic fieldwork and interpretation of findings; interpretation of the extent of Significant Woodlands; displacement of Significant Woodlands; uncertainties regarding potential impacts on the PSW and the effectiveness of the GRS system and AMP as outlined above; the potential impact of any physical works associated with the GRS on natural heritage features; impacts of long term maintenance of the GRS system on natural heritage features; questions regarding the status of, and overall approach to, Endangered Butternut; inadequate identification, interpretation and documentation regarding Significant Wildlife Habitat; and uncertainty surrounding the AMP and monitoring.
- The concerns surrounding the Noise and Blasting reports include: inadequate information regarding the proposed operation; a lack of consistency between the two reports regarding the number of benches; and potential noise and blasting impacts that have not been adequately addressed, including potential impacts on wildlife and natural features.
- The Archaeological Assessment prepared by Archaeologix Inc. has not been signed off by the Ministry of Culture or by City of Hamilton staff. The Ministry of Culture has identified the need for a Stage 4 assessment of two potential sites. The Stage 4 assessment has not yet been received.


**Re: Application for a Category 2 Class "A" Licence under the
Aggregate Resources Act
St. Marys Cement Inc. (Canada) – Flamborough Quarry
Part of Lots 1, 2 and 3, Concession 11
City of Hamilton (Former Township of East Flamborough)**

Page 3 of 3

- In addition to the above, the City objects to the ARA license application on the basis that information is lacking on the proposed haul route, as the preferred haul route has not yet been identified and the haul route study has not been completed. Information on proposed haul routes has been included in the Summary Statement submitted with the license application. However, to date, insufficient information has been provided to accurately judge the appropriateness of the proposed haul routes or the site entrance. In addition, insufficient information has been provided regarding the air quality impacts of the proposed quarry operation and along the haul routes, and to demonstrate that any air quality impacts from the pit and quarry will be mitigated on site.
- Based on all of the above, the City has concerns with the Site Plans submitted with the ARA application, the baseline characterization of the site, and potential implications for analysis based on the applicant's characterization of the site, as the City has not completed a thorough review of the Existing Features Plan, Operational Plans (Phases A to E), Technical Recommendations, Sections and Details, and Rehabilitation Plan, to determine if the representations made on the Plans are accurate, and if the recommendations contained in the Plans are acceptable.
- The City notes that the subject site must be rezoned to permit a quarry use before a licence can be issued under the Aggregate Resources Act. The required processes under the Planning Act to consider the proponent's Official Plan Amendment and Zoning By-law Amendment applications are under the City's jurisdiction and are still under way. In this regard, it is noted that many of the above concerns also raise issues of conformity with the provincial and municipal planning policy framework. Review of the planning applications against the relevant planning documents is ongoing, and therefore it is premature at this time for the City to comment on the information contained in the Summary Statement submitted with the license application.

If you require further information on the above, please contact Heather Travis, Senior Planner at 905-546-2424 Ext. 4168 or heather.travis@hamilton.ca, or Michelle Sergi, Senior Project Manager at 905-546-2424 Ext. 1281 or michelle.sergi@hamilton.ca.

Yours truly,



Tim McCabe
General Manager
Planning and Economic Development Department

:HT

Attach. (1)



Hamilton

City of Hamilton
City Hall, 71 Main Street West
Hamilton, Ontario,
Canada L8P 4Y5
www.hamilton.ca

City Clerk's Office, Corporate Services
Physical Address: 77 James Street North, Suite 220
Phone: 905.546-2424 ext 2729 Fax: 905.546-2095
Email: Alexandra.Rawlings@hamilton.ca

May 1, 2009

St. Marys Cement Inc. (Canada)
55 Industrial Street
Toronto, ON M4G 3W9

Ministry of Natural Resources,
Guelph District
1 Stone Road West
Guelph, ON N1G 4Y2

Dear Sirs:

Re: St. Mary's Cement Aggregate License Application

At its meeting of April 15, 2009, Hamilton City Council passed the following resolution objecting to the Aggregate License Application submitted by St. Mary's Cement, as follows;

7.1 St. Mary's Cement Aggregate License Application

(McCarthy/Clark)

WHEREAS St Mary's Cement submitted an Aggregate Resources Act application to the Ministry of Natural Resources (MNR) on January 22, 2009, resubmitted on February 13, 2009, and the application was found to be complete by MNR on March 3, 2009.

AND WHEREAS the Ministry of Natural Resources has the legislative authority to approve or deny Aggregate Licenses.

AND WHEREAS there is currently an application for an Aggregate License by St. Marys Cement in Flamborough.

AND WHEREAS the McGuinty government has passed numerous initiatives to monitor, enforce and protect the environment. With legislation in place that is meant to secure the protection of areas such as we have in Flamborough against assault of its environmentally protected features.

AND WHEREAS Section 12.1 of the Aggregate Resources Act states:

12.(1) In considering whether a license should be issued or refused, the Minister or the Board, as the case may be, shall have regard to,

- (a) the effect of the operation of the pit or quarry on the environment;
- (b) the effect of the operation of the pit or quarry on nearby communities;
- (c) any comments provided by a municipality in which the site is located;
- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- (e) any possible effects on ground and surface water resources;

- (f) any possible effects of the operation of the pit or quarry on agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;
- (i) the quality and quantity of the aggregate on the site;
- (j) the applicant's history of compliance with this Act and the regulations, if a licence or permit has previously been issued to the applicant under this Act or a predecessor of this Act; and
- (k) such other matters as are considered appropriate. R.S.O. 1990, c. A.8, s. 12; 1996, c. 30, s. 9 (1, 2); 2002, c. 17, Sched. F, Table.

AND WHEREAS all parameters listed under 12.1 apply to this proponent's application and are clearly irresolvable.

AND WHEREAS St Marys Cement is refusing to redo groundwater testing with respect to Phase 1 (1 of 3 Phases) of the Permit to Take Water (PTTW) as ordered by the Ministry of the Environment (MOE), stating in a January 22, 2009 letter that they (St Marys Cement) "do not believe that any further data will be gained by repeating Phase 1 of the pumping test and will not be repeating the Phase."

AND WHEREAS the MOE in a letter to St. Marys Cement dated March 5, 2009 state: "It is the ministry position that hydrogeological studies completed to date have not provided information to conclude that the proposed Groundwater Recirculation System is an acceptable mitigation strategy for this site. Further pumping tests are necessary to demonstrate that the proposed Groundwater Recirculation System for this site will protect the quality and quantity of both groundwater and surface water." (NOTE: St. Marys Cement's letter indicates that they will not be carrying out any further testing under the mandate of the PTTW. Accordingly, unless they advise the MOE otherwise by March 20, 2009, the permit will be revoked.)

AND WHEREAS MOE has stated that completion of necessary studies (which includes the pump tests) is required prior to consideration of or any PTTW being issued for a quarry operation.

AND WHEREAS the City's Medical Officer of Health, Dr. Elizabeth Richardson, has stated in a letter to the Ministry of Natural Resources dated February 10, 2009, that Public Health Services has health concerns regarding the operation of a limestone quarry as proposed by an Aggregate Resources Act Application made by CBM St Marys Cement, and that these concerns are due to a potential risk for adverse impacts upon groundwater quantity and quality that could be caused by the quarry.

AND WHEREAS the Region of Halton's Medical Officer of Health, Dr. Bob Nosal, has stated in a letter to the Ministry of Natural Resources dated February 20, 2009, that the Halton Regional Health Department has health concerns regarding the operation of a limestone quarry as proposed by an Aggregate Resources Act Application made by CBM St. Marys Cement, and that these concerns are due to a potential risk for adverse impacts upon groundwater quantity and quality that could be caused by the quarry.

AND WHEREAS St Marys Cement stated in the Fall 2007 Newsletter #6 that "St Marys is committed to successfully demonstrating our GRS method here in Flamborough before this system is implemented or added as a component to our final application." And, with the refusal to complete the MOE ordered test phases, no mitigation system, of any kind, has been tested on-site to evaluate if the unacceptable impacts of quarry dewatering can be managed.

AND WHEREAS this proposed quarry falls within our community's significant recharge area and Well Head Protection Area (WHPA). The new Clean Water Act promises protection for our drinking water right at its source. The law promises to prevent problems before they happen. The Greenbelt Plan prohibits extending lake-based water systems to our communities. If something goes wrong, there is no Plan B for our drinking water. Protection of water must be the first priority and take precedence over a proposed quarry.

AND WHEREAS the City of Hamilton unanimously approved a Motion on February 27, 2008 with respect to the Carlisle groundwater-based municipal system, with the following resolution:

That the City of Hamilton:

- (a) bring to the attention of the Provincial Government its concerns regarding potential adverse impacts on the Carlisle groundwater-based municipal drinking water system
- (b) request the Provincial Government, through the Premier and the Ontario Minister of the Environment, to fully consider the potential ramifications of the proposed development and
- (c) before any provincial permits or approvals are issued for the proposed St Marys Quarry, the province should require a formal review by the Halton/ Hamilton Source Protection Authority, as part of the local source protection process.

AND WHEREAS in the City of Hamilton Public Health Services letter dated October 26, 2007 to the MOE, as per Item 3 (b) (i), (ii), (iii) and 3 (c), the City of Hamilton's hydro-geologist requested special testing of organics because of identified contaminants within the area.

AND WHEREAS there has been no Official Plan Amendment change or rezoning approved by the City of Hamilton for the lands. The lands are currently zoned as "Agriculture and Conservation Management". The proposed use is not a permitted use.

AND WHEREAS the proposed site falls completely within the Natural Heritage System of Ontario's Greenbelt, the area of highest environmental value. Provincially Significant Wetlands, significant woodlands, and other nationally, provincially, regionally and municipally designated natural features and species at risk, or their habitats, are present on and around the site.

AND WHEREAS St Marys Cement has failed to complete vital impact studies requested by Municipal, Regional and Provincial bodies with respect to issues such as the Permit to Take Water, Transportation Study and related public information meetings, and the company was found negligent in the amount of \$30,000 payable to the City of Hamilton for damages to our roads because of unauthorized road core sampling,

AND WHEREAS St Marys Cement has suddenly shifted the process, abandoning their current work with the Municipal Government, and moving on to the Provincial Government level, showing complete disregard for the welfare of our community.

AND WHEREAS the timeframe provided to allow municipal and agency technical experts to digest, review, and submit detailed comments on the material is very short (45 days), a significant disadvantage is imposed to commenting bodies.

April 29, 2009

Page 4 of 4

AND WHEREAS St Marys Cement have yet to make any successful inroads towards their application to establish what would be the 8th largest quarry in Canada in an area that is already established residential, agricultural and conservation lands.


THEREFORE BE IT RESOLVED:

That the Council of the City of Hamilton:

- (a) Objects to the Aggregate License Application submitted by St. Marys Cement.
- (b) Call upon the Minister of Natural Resources under the authority granted to her by Section 12.1 of the Aggregate Resources Act RSO 1990 to refuse the aggregate license submitted by St. Marys Cement
- (c) Circulate this resolution to Premier Dalton McGuinty, Conservation Halton and the municipalities of Milton, Burlington and Halton so that those Councils may consider a similar resolution.

We are forwarding you this Resolution in response to your advertisement dated April 3, 2009 in The Spectator. If you need any further information respecting this matter, would you please contact Heather Travis at 905-546-2424, ext 4168.

Yours truly,



Alexandra Rawlings, M.Sc., MCIP, AMCT
Co-ordinator
Economic Development and Planning Committee

AR:sr

File: 09-010

c.c. Premier Dalton McGuinty,
Conservation Halton
Mayor Gordon Krantz, Town of Milton,
Mayor Cam Jackson, City of Burlington
Regional Chair Gary Carr, Regional Municipality of Halton
The Honourable Donna Cansfield, Minister of Natural Resources
Heather Travis, Planning