

Review-05/13/10-St. Marys Cement Launches Appeal  
St. Marys launches appeal  
Dianne Cornish  
Published on May 13, 2010

St. Marys Cement (SMC) announced Monday it is appealing the Ontario government's zoning freeze on the proposed quarry site in northeast Flamborough. The zoning order, issued April 13 by Minister of Municipal Affairs Minister Jim Bradley, effectively put a halt to the aggregate company's plan for a 150-hectare quarry at 11 Concession Road East and Milborough Line.

In its submission, St. Marys asks Minister Bradley to revoke the order and "refer the matter to the Ontario Municipal Board (OMB) for a hearing and decision under the existing regulatory framework."

Despite opposition from citizens' groups, local municipal councils and medical officers of health about the project's potential impact on local groundwater and environment, a top St. Marys official says the application for a quarry licence is winnable.

"Our application was making its way through the rigorous provincially and municipally mandated processes and we believe – if the project is assessed on its merits – it will be ultimately approved," said John Moroz, vice-president and general manager of St. Marys Cement, CBM. "As we have stated before, St. Marys was surprised and disappointed by this unprecedented decision (to order a zoning freeze) and we believe the Ontario government has made a grave error."

Graham Flint, chair of Friends of Rural Communities and the Environment (FORCE), said he was "disappointed but not really surprised" that St. Marys filed an appeal challenging the government's decision. "We call upon the provincial and municipal stakeholders to continue to defend their opposition to the quarry," he said, noting that substantive arguments have been made against the proposal and they remain at every stage of the process.

Flint said FORCE is waiting to hear grounds for the appeal before deciding if the group will get involved in the hearing. "At this point, it's between St. Marys and the province," he said. He did not discount the possibility that the anti-quarry group will file for party or participant status in the hearing.

The zoning order represents a victory for the group, "but the war is not over," Flint acknowledged.

**MPP Ted McMeekin, who has supported FORCE in its opposition to the quarry, said in an earlier interview that if St. Marys appeals the zoning freeze,**

- \* **Minister Bradley will refer the appeal to the OMB**
- \* **but then has 30 days before the hearing date to declare a provincial interest in the site.**
- \* **"The government would not have moved to issue a Ministerial Zoning Order (MZO) unprepared to declare a provincial interest," he said.**

A declaration of provincial interest means

- \* the Ontario Cabinet can review and reject the OMB decision, if necessary.
- \* McMeekin suggested that Cabinet will back the MZO. "It was a ministerial decision, but reflects the position of the government."

FORCE's lawyers have advised that SMC has two legal options to fight the government's decision: a request that the MZO be changed or revoked which can also include appealing the matter to the OMB and/or filing an application for judicial review of the decision by the courts.

The company can choose to pursue one or both options.