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To: <MOEWCR.Permits@ontario.ca>

Date: Fri, 6 Jun 2008 11:03:53 -0400

Subject: EBR #010-3469 - Draft Permit to Take Water - St. Marys CBM Proposed Pumping Test

I provide the following comments on the draft Permit to Take Water (PTTW) and represent the concerns of both my constituents and myself.

You know that I am personally opposed to the St Marys CBM development and that I will continue to vigorously oppose it on behalf of the residents of my ward and this community. There are so many reasons why this proposed quarry does not belong here and I will continue to bring forward the research and science to prove it.

I submit to you that **the Record of Site Condition for this property did not take into account the file which contained "Hazardous Waste"**, as documented in the list of infractions provided by Mr. Jason Ryan of your office. I have shared the information provided to me with City staff who confirmed that they were not privy to it. I have also shared it with my elected colleagues in Milton so that they are aware of it and can work with staff at the Region and Conservation Halton. **In light of that missed information, this PTTW should be denied. The PTTW requires nothing less than a whole new evaluation with all the files available to the community and to the commenting agencies for investigation. I implore you to ensure that this takes place. As the agency bestowed with the authority to approve or deny this PTTW, it is your responsibility to ensure that this new information, not previously known about, is understood. If a PTTW is issued, responsibility for any ensuing water problems clearly falls to MOE and the proponent and cannot be left as a burden to Hamilton and the other municipalities.**

I want to remind you of the position of the City of Hamilton on the PTTW application before you. On February 27, 2008, **Hamilton City Council unanimously passed my Carlisle Water motion** (full text included), signed off by the relevant staff departments, which called on Hamilton City Council to:

- bring to the attention of the provincial government its concerns regarding potential adverse impacts on the Carlisle groundwater based municipal drinking water system
- 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
- before any provincial permits or approvals are issued, the province should require a formal review by the Halton-Hamilton Source Protection Authority, as part of the local source protection planning process.

As a municipal representative for the City of Hamilton on the Halton-Hamilton Source Protection Committee, I can indicate that we are obviously aware of this proposed development and our Chair attended the April 16, 2008 public meeting. **As the Source Protection Committee and Source Protection Agency, we are not formally engaged in review of this development at this time and, specifically, are not formally engaged with this permit review.** As you are aware, we are currently undertaking public consultation on the proposed Terms of Reference and its associated work plan and budget. The Terms of Reference must be completed before we move to complete threats assessment work and the source protection plan.

Responsibility for decision making on this permit rests with you and, by extension, the

Provincial Government. As the Director, you have a duty to protect the groundwater, surface water and water related features and to protect other groundwater users, including the Carlisle municipal drinking water system and nearby residences, farms and schools.

At the April 16th public meeting, much emphasis was placed on technical considerations and whether the test could be conducted safely.

It is certainly my opinion that the safety test has not been answered when it comes to potential contamination impacts. I have repeatedly indicated that there is a long history of illegal dumping of wastes on the site, documented in MOE's own files, and verified by neighbouring residents. The wastes include septic wastes, abandoned cars, shingles and tires, a "homemade incinerator" for burning electrical and metal components, and drums containing PCB wastes. The site also has proximity to at least one other known and documented site within approximately 2.5 km, representing other potential contamination risk. I also note that your office's recent site inspection on April 24, 2008 confirmed that even the non-hazardous waste was not completely remediated.

The mobilization risk of contaminants upon significant drawdown and as part of the recirculation system exists. If the test is approved, I ask you: what is the potential for surface water to carry with it surface contamination from the rural community which might include any number of commonly identified contaminants such as ecoli, total coliforms, nitrates and fertilizers, and microbial contaminants commonly produced by livestock along with potential contaminants such as benzene and PCBs. These are some of the contamination issues that I have learned about and there are probably many others right in the area which are relevant to this PTTW. I ask what the survival rates of these contaminants are if they get carried into the rock formation. How long can Ecoli and total coliform survive in water? One of my concerns is that under this test, no problems may show up immediately but there may be long term impacts. These need to be clearly identified. How can the MOE guarantee my community that there is no risk whatsoever of these contaminants showing up in the future because of these tests? I do not believe that you can guarantee the safety of my community's water if this PTTW is allowed to proceed.

Commenting agencies, including MOE, need to re-evaluate this draft PTTW in light of unevaluated records of contamination and MOE's print-out of waste dumping infractions, including hazardous wastes that were never identified under the "**Record of Site Condition**" for the property. I have brought this material to the attention of City staff and to the attention of my elected colleagues in Halton. **If a PTTW is issued, MOE and the proponent, St Marys CBM, need to be held responsible for any resulting water problems.**

Many have argued that this debate is about a short term test to get some data about the aquifer and about a possible mitigation system. It is about much more. It is about a fundamental right to plentiful, clean and safe drinking water for my constituents. In my opinion, we still need to go back to first principles. What is mitigation? Mitigation is making unacceptable impacts less bad. We have to ask if we should be allowing these unacceptable impacts to occur in the first place, **now more than ever based on the discovery of a file not previously evaluated.**

The Carlisle ground-water based municipal drinking water system has a well documented history of both quantity and quality problems. St Marys own consultants have written that there would be unacceptable impacts from the quarry, without mitigation. It boggles the mind

that this test and this development would even be considered. Add in the potential contamination risk and it is unfathomable.

Hamilton's Public Health Department is on record as having serious concerns with this testing and it conveyed those concerns and outstanding requirements using a rarely used section of the *Health Protection and Promotion Act* because their concerns were that significant. The proponent still has work to do to satisfy those concerns. One area still requiring attention, in the most recent hydrogeology work plan, was discussion with MOE about the history of illegal dumping and potential contamination on the site.

This is a theoretical and unproven mitigation system. We do not have documents and long term monitoring results showing that this specific system has worked in this specific type of setting and this climate anywhere else. Fractured limestone is one of the most challenging and least predictable environments in which to work when it comes to groundwater flows and impacts.

We are living in a post-Walkerton world. There are new laws – like the *Ontario Clean Water Act* – in place to help establish a multi-barrier framework to prevent and stop water quantity and quality problems before they happen. The Ministry's own technical experts committee addresses future quarry land uses in three sections. The technical experts committee felt that quarries were a land use of provincial concern (Table 3.1) and, as part of its suggested risk management approaches, called for no new quarries within the 5 year Time of Travel to municipal wellhead protection areas (Table 6.2). This proposal falls closer - within the 2 year Time of Travel. The 2 year Time of Travel is an area which the technical expert committee felt should have more protections because of pathogen and bacteriological concerns (recommendation 46), not less.

Issuing a PTTW, even if you try to position it as a test, not the full scale quarry, and even if you try to say it does not mean MOE approves of the quarry, is the first step on a slippery slope to threatening our drinking water and our community. It is time to reconcile conflicting priorities between development and environmental protection. Exercise your duty to protect this drinking water for the long term.

We have come a long way on the path to prevent further tragedies since the Walkerton inquiry with Justice O'Connor's recommendations of precaution and prevention. Legislation has been written in order to implement those recommendations. Now is the time to adhere to that legislation and protect Carlisle's water and that of surrounding residences. **The Record of Site Condition did not take into account the file which contained "Hazardous Waste". In light of that missed information, this PTTW should be denied. It requires nothing less than a whole new evaluation with all the files available to the community and the commenting agencies for investigation. I implore you to ensure that takes place. As the agency bestowed with the authority to approve or deny this PTTW, it is your responsibility to ensure that this new information, not previously known, is understood.**

Yours sincerely,

Councillor Margaret McCarthy

CITY OF HAMILTON

NOTICE OF MOTION

Council Date: February 27, 2008

MOVED BY COUNCILLOR MCCARTHY

Whereas the Carlisle groundwater-based municipal system has a well documented history of both quantity and quality problems, in staff and consultants' reports,

And, Whereas there is a Permit to Take Water (PTTW) application for a pilot test of the proposed mitigation system for a proposed Flamborough quarry before the Ontario Ministry of the Environment

And, Whereas the proposed quarry development sits within the recharge area and the two year Time of Travel (TOT) for the Carlisle municipal system's Wellhead Protection Area

And, Whereas the final land use disposition for the proposed quarry development is to flood the quarry and to make a lake with potential for surface-to-groundwater-issues

And, Whereas the Ontario Clean Water Act is premised on the pre-cautionary principle and the recharge areas and wellhead protection areas in municipal systems are the first priority for protection and implementation

And, Whereas, in November 2004, the Ontario Minister of the Environment's Technical Experts' Committee identified quarries as a land use activity that threatens drinking water sources and are sufficiently serious to be of provincial concern that the Committee recommended they and their final land use be assessed according to new municipal well standards and/or restricted within the 5 year Time of Travel to a municipal wellhead protection area

And, Whereas Justice O'Connor in his inquiry into the Walkerton tragedy wrote a report which recommended that the Provincial Government establish multi-barrier systems to protect drinking water, including local source protection planning, and whereas the Halton/Hamilton Source Protection Committee is just beginning its work

And, Whereas, Hamilton Public Health Services notified the Ontario Ministry of the Environment in October 2007 regarding concerns of a reasonable and probable risk of a public health concern in the form of adverse groundwater quantity and/or quality impacts and

whereas these concerns will only be considered satisfied when the details have been included and implemented in a revised Hydrogeological Work Plan for pump tests (and a PTTW) to assess a proposed Groundwater Circulation System (GRS) for the proposed Flamborough quarry site .

And, Whereas the Environment Commissioner of Ontario cited this proposed development in his 2006/2007 Annual Report in December 2007 and called on the Province to reconcile its conflicting priorities between aggregate extraction and environmental protection and to screen out proposals with identified natural heritage or source water protection values

And, Whereas the Carlisle area falls within the Greenbelt Plan and said Greenbelt Plan specifically prohibits new and extensions to existing lake-based water systems

And, Whereas City of Hamilton residents in the communities of Carlisle, Freelton, and Mountsberg, along with our neighbours in Milton, through Friends of Rural Communities and the Environment (FORCE) and Environmental Defence, have started a provincial advocacy campaign regarding their concerns about potential risks to their drinking water,

Therefore Be it Resolved,

That the Council of 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.

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