

FORCE continues to dig in for battles with SMC

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By Dianne Cornish, REVIEW STAFF

Even though it's been almost eight years since residents in northeast Flamborough learned that a large limestone quarry was being proposed on the 11th Concession near Milborough Line, the community's resolve to defeat the proposal hasn't waned. Proof of their continued commitment was evident last Tuesday as close to 300 residents gathered for a meeting at Our Lady of Mount Carmel Catholic Elementary School in Carlisle to voice their opposition to the longstanding proposal and hear from local politicians that they are not alone in their battle.

"I'm absolutely impressed by the dedication and engagement of the community," said FORCE (Friends of Rural Communities and the Environment) chair Graham Flint this week as he discussed how local families and businesses continue to support the anti-quarry group with donations to wage legal battles against St Marys Cement (SMC). He told the crowd at last week's meeting that it's crucial they remain engaged.

"Do not let St Marys Cement win because we failed to step up and pool our resources."

Flint said he's gratified to see support from all three levels of government, particularly since the aggregate company "is clearly not going away" and has launched six legal proceedings in an effort to get an aggregate licence for the Flamborough site.

At the provincial level, SMC has requested an Ontario Municipal Board (OMB) hearing to revoke the MZO (Ministerial Zoning Order) which the Ontario government placed on the quarry site in April 2010, essentially freezing the zoning on the site as agricultural and conservation management and making it impossible to establish a quarry there.

The hearing was adjourned last year when SMC announced it was pursuing another legal channel, launching a judicial review through the Ontario divisional court into the MZO as well as into the Ontario government's subsequent move to declare a provincial interest (DPI) in the site last April. The provincial interest declaration makes it possible for the government to overturn any OMB ruling about the quarry site that it disagrees with.

In addition, the aggregate company recently asked the Ontario Superior Court of Justice to set aside a decision by the Environmental Review Tribunal (ERT) backing the Ministry of Environment's (MOE's) decision to deny a permit to take water (PTTW) to St Marys so it can conduct pumping tests on the proposed quarry site.

The remaining three legal challenges have been launched at the federal level. SMC filed a Chapter 11 North American Free Trade Agreement (NAFTA) claim, which the Canadian government denied on the basis that the Brazilian owner of the aggregate company has no standing because Brazil is not a signatory to NAFTA. Also, the American arm of the company doesn't conduct substantial ongoing business in Canada to warrant the \$275-million (US) claim, a government official recently informed Flint.

SMC reacted to the Canadian government's decision by applying to the federal court for a judicial review of the decision and also, according to a recent press release from the company, filing a second NAFTA claim.

SMC alleges that Ontario's Liberal government was politically motivated when it declared a zoning freeze on the quarry property and when it declared a provincial interest in the site. The company has argued that its legal actions are necessary to protect its rights to pursue an aggregate licence.

“It is unfortunate that the hurdles we have faced have cost the community, the justice system and St Marys considerable money,” said St Marys CBM Aggregates president Richard Olsen in a recent press release. “All we asked for is to be allowed to go through the normal, established, stringent approvals process that has served Ontario well for a long time.”

But Ted McMeekin, MPP for Ancaster-Dundas-Flamborough-Westdale (ADFW) and Minister of Agriculture, Food and Rural Affairs, told those attending FORCE’s community meeting that the government’s decisions to declare a MZO and a DPI were “the right thing to do” and “I can tell you the government remains committed to vigorously defend all of its decisions.”

Similar pledges of support came from ADFW MP David Sweet and Ward 15 councillor Judi Partridge, who also spoke at the meeting. Sweet applauded FORCE “for the professional way” that it has conducted its campaign over the past eight years and gave a brief summary of the NAFTA claims, concluding with a pledge that “the government of Canada is prepared to work with Ontario to vociferously work to defend Canadians (in NAFTA claims) and your interests.”

Partridge said the City of Hamilton and council is “100 per cent committed to supporting the fight against St Marys Cement on behalf of the Carlisle/Freelton and area residents.” She said the city continues to offer its support to FORCE in its legal battles with the company and was an active participant in the ERT and “has maintained its strong objection to the (aggregate) licence application.”

Before the politicians spoke, Flint told residents the speakers were restricted in what they could say publicly because of the legal challenges. He said the court actions represent an expense to FORCE, but are costing SMC considerably more.

“In the end, it could come down to who has the resources to go the distance,” he said. While the volunteer group strives to get a \$500 yearly donation from each of the 200 families who would be most affected if a quarry were approved in their area, Flint said FORCE welcomes all donations and is sensitive to the reality that not everyone is able to provide lump sum donations of that size.

“We need the funds to be able to do this,” he said of the ongoing legal battles.

To further augment the community “war chest,” FORCE is hosting a community party at 7:30 p.m., Saturday, June 2 at the Carlisle Community Centre, and a golf tournament at 12 (noon) on Thursday, June 28 at the Carlisle Golf and Country Club.