

January 15th, 2006

Permit to Take Water Coordinator
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Sent by Fax on January 15, 2006

To whom it may concern:

Re: EBR IA05E1857 – Permit to Take Water Application by Flamborough Springs Inc.

FORCE

Friends of Rural Communities and the Environment (FORCE) is a federally registered not for profit corporation. It is a citizen-based advocacy group with hundreds of supporters in Kilbride (Burlington), rural Milton, Campbellville, Mountsberg, Freelon, and Carlisle. FORCE was formed in June 2004 to protect our natural and built environments in the face of a proposed large-scale, below the established groundwater table, aggregate development by Lowndes Holdings Corp. in the Northeast Flamborough portion of the amalgamated City of Hamilton.

One of the most significant areas of concern we have in regards to the proposed aggregate development is its impact on groundwater. The location of the source well for this water taking application is less than 3 kilometers west of the proposed aggregate development along the 11th Concession East Road in Hamilton. We feel that its groundwater impact could be relevant to the proposed aggregate operation. Groundwater, in appropriate quality and quantity, is essential to life and as such we feel strongly that it deserves the highest possible level of protection.

Protection for Groundwater

Current and pending Provincial Legislation in the area of groundwater protection reflects that belief as well. In particular we call attention to the new regulations around *Permits to Take Water* revised under the *Ontario Clean Water Act* and the new *Source Water Protection* legislation proposed under the *Clean Water Act*.



Permit to Take Water (PTTW) under the *Ontario Water Resources Act*

In 2004, the Provincial Government passed regulation O. Reg. 387/04 to explicitly expand the considerations relevant to a PTTW application to include the following mandatory considerations, where relevant, when a Director is considering an application to cancel, amend or issue a permit to take water. Given the groundwater challenges in this area, we believe that these considerations have direct bearing on this application.

From the regulations:

“(2) The Director shall consider the following matters, to the extent that information is available to the Director, and to the extent that the matters are relevant to the water taking or proposed taking in the particular case:

1. Issues relating to the need to protect the natural functions of the ecosystem, including,
 - i. the impact or potential impact of the water taking or proposed water taking on:
 - A. the natural variability of water flow or water levels,
 - B. minimum stream flow, and
 - C. habitat that depends on water flow or water levels, and
 - ii. ground water and surface water and their interrelationships that affect or are affected by, or may affect or be affected by, the water taking or proposed water taking, including its impact or potential impact on water quantity and quality.
2. Issues relating to water availability, including,
 - i. the impact or potential impact of the water taking or proposed taking on:
 - A. water balance and sustainable aquifer yield, and
 - B. existing uses of water for large municipal residential systems and small municipal residential systems, both as defined in subsection 1 (1) of Drinking-Water Systems, for sewage disposal, livestock and other agricultural purposes, for private domestic purposes, and for other purposes,
 - ii. low water conditions, if any,
 - iii. whether the water taking or proposed water taking is in a high use watershed or a medium use watershed,
 - A. as shown on the Average Annual Flow Map, or
 - B. as shown on the Summer Low Flow Map, and

iv. any planned municipal use of water that has been approved,

A. under a municipal official plan in accordance with Part III of the *Planning Act*, or

B. under the *Environmental Assessment Act*.

3. Issues relating to the use of water, including,

i. whether water conservation is being implemented or is proposed to be implemented in the use of the water, in accordance with best water management standards and practices for the relevant sector if these are available,

ii. the purpose for which the water is being used or is proposed to be used, and

iii. if the water is not currently being used, whether there is a reasonable prospect that the person will actually use the water in the near future.

4. Other issues, including,

i. the interests of other persons who have an interest in the water taking or proposed water taking, to the extent that the Director is made aware of those interests, and

ii. any other matters that the Director considers relevant.”

The regulation also makes provision to distinguish between high-use and other watersheds, as follows:

“(3) If the proposed water taking is in a high use watershed as shown on the Average Annual Flow Map, the Director shall refuse the application unless,

(a) at the time of the application, the applicant or another person held an unexpired permit to take water; and

(b) the application is for a new permit to authorize the taking of the same or a lesser amount of water at the same location and for the same purpose as was authorized by the unexpired permit.

(4) If the proposed water taking is in a high use watershed as shown on the Summer Low Flow Map, the Director shall refuse the application unless,

(a) the permit includes a condition prohibiting the person from taking water during the six-week period from August 1 to September 11, or during a specified longer period that includes the six-week period; or

(b) at the time of the application, the applicant or another person held an unexpired permit to take water, and the application is for a new permit to authorize the taking of the same or a lesser amount of water at the same location and for the same purpose as was authorized by the unexpired permit.”

Source Water Protection under the *Clean Water Act*

The proposed *Clean Water Act*:

- Requires municipalities and conservation authorities to map the sources of drinking water supply, and especially the vulnerable areas that need protection, such as the areas around wellheads, water intakes, recharge areas, and aquifers in order to prevent the supply from being depleted or contaminated.
- Directs local communities to monitor *any* existing or *future activity* that could potentially threaten water quality or quantity and take action to reduce or remove that threat.
- Empowers local authorities to take preventative measures before a threat to water can cause harm.

Communities are also directed to work together across watersheds in full and public consultation to develop and execute plans to protect their drinking water sources. This new approach is based on good science, increased vigilance and the necessary foresight to avoid potential problems, not just deal with immediate ones.

Municipalities will be given special authority to take action on significant threats to vulnerable drinking water supplies and to develop and implement strategies - like by-laws, education programs, incentives, land use planning initiatives, and partnerships - to manage risks around municipal water supply wells and intakes. They will have the authority to require businesses, farmers and other landowners to take steps to remove significant risks to drinking water. Conservation authorities will coordinate planning across watersheds by supporting local municipalities, gathering information, assessing and ranking threats, consulting, and integrating the municipal strategies into larger watershed plans to protect drinking water.

Considerations for this Application

All of these criteria need to be considered when evaluating this application. While the water taking operation underlying this application has been in existence for some time now, after meeting with the applicant and reviewing the history of Water Taking Permits for the location, we understand that the volumes requested here represent a significant increase from the existing takings. While the applicant indicates that they have no current plans to take the maximum amount requested, approval of the permit with such an upper limit will require that the situation be fully evaluated against that amount.

The City of Hamilton has begun its groundwater characterization work. Conservation Halton has just approved its revised Strategic Plan, including direction to begin its source water protection plan. Evaluation of the Lowndes Holdings Corp. Official Plan Amendment

and Zoning application by the City of Hamilton is well underway. The interaction between these planning \ protection activities needs to be considered when evaluating this application. Consideration of the expected results of that work should have a bearing on both the term and maximum volume permitted for this application.

FORCE requests that a full and thorough evaluation of this application be completed with consideration of all of the relevant factors. Impacts on groundwater are known to be cumulative and far reaching. Adequate supplies of quality groundwater are essential to all forms of life. It is critical therefore that groundwater is afforded the highest level of protection possible, through the most thorough evaluation of all the risks and relevant factors that can be done.

Yours sincerely,

A handwritten signature in black ink that reads "G. Flint". The signature is written in a cursive style with a long horizontal line underneath the name.

Graham Flint, B.A.Sc., P.Eng.
FORCE Chair & Spokesperson

cc: Stan Holiday – Senior Planner, City of Hamilton
Susan Cetinski – Marketing Manager, Flamboro Springs
Ian Hendrie – President, Flamboro Springs