Environmental Review Tribunal

Case No.: 08-053

Friends of Rural Communities and the Environment v. Director, Ministry of the Environment

In the matter of an application for Leave to Appeal by Friends of Rural Communities and the Environment (FORCE) pursuant to section 38 of the *Environmental Bill of Rights, 1993*, S.O. 1993, c. 28, as amended, with respect to a decision of the Director, Ministry of the Environment, under section 34 of the *Ontario Water Resources Act*, to issue Permit to Take Water Number 8461-7CFLG5, dated July 8, 2008, to St. Marys Cement Inc. (Canada) for the purpose of conducting pumping tests at bedrock well TW14, located at Lot 3, Concession 11, East Flamborough, in the City of Hamilton, Ontario; and

In the matter of a written Hearing regarding whether the Tribunal has jurisdiction to consider the application for Leave to Appeal.

Before: Dayna Scott, Member

Appearances:

David Crocker and Liliane Gingras	-	Counsel for the Applicant
Paul McCulloch	-	Counsel for the Director, Ministry of the Environment
Jolanta Malicki	-	Counsel for the Instrument Holder

Dated this **28th** day of **August, 2008**.

Reasons for Decision

Background:

On July 18, 2008, the Friends of Rural Communities and the Environment ("FORCE") submitted an application for Leave to Appeal (the "Leave Application") to the Environmental Review Tribunal (the "Tribunal") under the *Environmental Bill of Rights, 1993* ("*EBR*"). The Leave Application concerns Permit to Take Water Number 8461-7CFLG5 issued on July 8, 2008 (the "PTTW") by the Director, Ministry of the Environment ("MOE") pursuant to section 34 of the *Ontario Water Resources Act* ("OWRA") to St. Marys Cement Inc. (Canada) ("St. Marys") for the purpose of conducting pumping tests to understand the impacts of quarry dewatering on the aquifer and watershed and to test its proposed groundwater re-circulation system ("GRS") for its proposed aggregate extraction operations. The decision was loaded to the *EBR* Registry on July 8, 2008.

The proposed aggregate extraction operations are to be developed on a property owned by St. Marys in Flamborough, a rural community located in the amalgamated City of Hamilton, Ontario (the "Property"). The Property is located within a Natural Heritage System of the Greenbelt, and contains significant provincially, regionally and municipally designated natural features, including Environmentally Sensitive Areas and a provincially significant wetland complex. The proposed aggregate operations will result in an open excavation that will extend below the water table, potentially affecting the drinking water supply and quality for residents who live in the vicinity and draw their water from the Amabel Formation Aquifer (the "Aquifer"), and for the community of Carlisle which draws on a municipal well system that relies on the Aquifer.

To mitigate the expected effects of the aggregate operations on groundwater, St. Marys proposes using a GRS to allow for the release of groundwater and surface water collected in the quarry into a trench from which it would infiltrate the Aquifer with a goal of sustaining the groundwater level between the quarry and the adjacent wetland features and nearby residential drinking water supplies. The purpose of the PTTW is to allow St. Marys to conduct a series of three pumping tests to improve understanding of the impacts of quarry dewatering and to assess whether the GRS would be feasible as a mitigation measure.

St. Marys applied to the MOE on September 28, 2006 for a temporary permit to conduct the series of three pumping tests. According to the Director's materials, the application indicated that the pumping tests would involve the taking of water for up to 20 days in three phases over a

five week period within the space of nine months. The MOE notified the public of the application on October 13, 2006 by posting an "Instrument Proposal Notice" on the EBR Registry and invited the public to make comments. FORCE's materials indicate that the MOE received 532 comments on the proposed instrument, including comments from FORCE, who objected to the PTTW being granted in the manner proposed and filed expert reports in support of its objections. On May 7, 2008, the MOE posted a draft PTTW as an "Information Notice" on the *EBR* Registry. The notice was intended to enable the public to provide comments on the specific conditions being proposed in the PTTW. FORCE states that it filed further submissions with the support of expert reports.

On July 8, 2008, the Director issued the PTTW, which authorizes three independent pumping tests, each taking place over an expected period of six days, which can be extended for up to 8 days by the Director, on request. The PTTW details the rates and amounts of water taking permitted. Section 3.3 of the PTTW gives approval for the first 6 to 8 day test. Prior to conducting both the second and third tests, St. Marys must request and obtain written approval of the Director. A request must be accompanied by a report detailing results of the previous test. The PTTW requires that the Director's approval be based on the results of the previous pumping test being acceptable to the Director. Section 4.22 of the PTTW requires that within 30 days of the completion of each phase of testing, St. Marys must submit a hydrogeological and hydrological report. The PTTW was issued for a duration of approximately 11 months and three weeks, or 357 days; it will expire on June 30, 2009.

The posting on the *EBR* Registry notifying the public of the PTTW states:

> No Leave to Appeal provisions are provided on this decision. The permit that was issued is for less than a year and therefore, is no longer considered a "classified Instrument" under the Environmental Bill of Rights.

On July 18, 2008, the Tribunal wrote to the Parties, indicating that it appeared that the Tribunal might not have jurisdiction to consider the application for Leave to Appeal and requesting submissions on the issue. All submissions on the question of the Tribunal's jurisdiction were filed by August 1, 2008.

Issue:

The central issue is whether the Tribunal has jurisdiction to consider the application for Leave to Appeal filed by FORCE. The specific issue relating to the Tribunal's jurisdiction is whether the PTTW constitutes a decision to implement a proposal for a Class I instrument as required by section 38(1) of the *EBR*.

Relevant legislation:

Section 38(1) of the *EBR* states that:

> Any person resident in Ontario may seek leave to appeal from a decision whether or not to implement a proposal for a Class I or II instrument of which notice is required to be given under section 22, if the following two conditions are met:
>
> 1. The person seeking leave to appeal has an interest in the decision.
>
> 2. Another person has a right under another *Act* to appeal from a decision whether or not to implement the proposal.

Paragraph 1 of section 3 of Ontario Regulation 681/94 made under the *EBR* states:

> Class I Proposals – *ONTARIO WATER RESOURCES ACT*
>
> 3. The following is a Class I proposal for an instrument:
>
> 1. A proposal for a Permit under Section 34 of the *Ontario Water Resources Act* that would authorize the taking of water over a period of one year or more, except a proposal for a permit to take water only for the purpose of irrigation of agricultural crops.

Discussion and Analysis:

A preliminary issue arose with respect to the filing of FORCE's Leave Application materials. St. Marys objected to FORCE's filing of its Leave to Appeal application materials and referring to these in its submissions on the Tribunal's jurisdiction. St. Marys argued that FORCE's reference to the Supplementary Application materials was "premature and irrelevant to the issue of whether the Tribunal has jurisdiction to hear the Leave to Appeal application". FORCE replied that the filing of its Supplementary Application was necessary in order to preserve its right to seek Leave to Appeal the PTTW. References to the Supplementary Application in FORCE's submissions on the Tribunal's jurisdiction were made, according to FORCE, for the purposes of expedience and ease of reference and could have been made without using the Supplementary Application.

The *EBR* provides that applications for Leave to Appeal of a decision must be made no later than 15 days after the date of posting of the decision. Rule 38 of the Tribunal's Rules of Practice sets out the required contents of an application. Rule 39 provides that if an applicant is unable to submit all the information required by Rule 38 within the statutory time frame, the applicant shall advise the Tribunal what date the material will be filed, which shall be no later than five days after the application is filed unless the Tribunal consents to another date. In this case, the initial application for Leave to Appeal was filed on July 18, 2008 and correspondence from

FORCE dated July 18, 2008 indicated that more materials would be filed before the expiry of the statutory time limit. The supplementary materials were filed on July 23, 2008. Both the initial and supplementary materials were filed by the statutory deadline. The Tribunal finds that the filing of the supplementary materials was necessary in order to fulfill the requirements of the *EBR* and the Tribunal's Rules of Practice. Since the material could have been filed as part of FORCE's submissions on the issue of jurisdiction, there was nothing improper about the manner in which FORCE proceeded in its filing. Consequently, the Tribunal has considered this material in so far as it relates to the jurisdictional issue.

To return to the central issue, the question of the Tribunal's jurisdiction turns on whether the PTTW constitutes a decision to implement a proposal for a Class I instrument. FORCE's position is that the Tribunal has jurisdiction to consider the Leave Application on the basis that the nature of the PTTW is such that it is a Class I instrument. In contrast, both the Director and St. Marys take the position that the permit is not a Class I instrument because it authorizes the taking of water over a period of less than one year.

In support of its position that the Tribunal has jurisdiction, FORCE forwards essentially two main arguments. First, it submits that the MOE's own actions indicate that the PTTW is a decision to implement a proposal for a Class I instrument; and second, it submits that the water taking activities are "likely to continue over a period of one year or more".

In relation to the first argument, FORCE submits that the MOE considered the PTTW to be a proposal for an instrument for which notice had to be given under section 22 of the *EBR*, since the MOE notified the public of the proposal as an "Instrument Proposal", as opposed to an "Information Notice" and invited comments on the proposal. FORCE suggests that this position is supported by the wording of the July 8, 2008 *EBR* Registry posting which states that the permit "is no longer considered a 'classified Instrument' under the Environmental Bill of Rights."

FORCE refers to the Tribunal's determinations in *Greenspace Alliance of Canada's Capital* v. *Director, Ministry of the Environment*, July 21, 2008, Environmental Review Tribunal, Case Nos.: 07-164/-07-165 ("*Greenspace*"):

> [I]t is the nature of the proposal that determines whether a proposal is a Class I proposal under paragraph 1 of section 3 of the *Classification Regulation.* The duration specified in the application as the term for the permit, in and of itself, is not conclusive of whether the proposal "would authorize the taking of water over a period of one year or more".

Based on the MOE's actions, FORCE submits that the nature of the proposal is that it is for a Class I instrument.

With respect to the second argument, FORCE submits that the dewatering mitigation system (ie., the GRS) proposed by St. Marys is a theoretical system which has never been physically tested, that the GRS has never been used in the manner proposed and that the application for the PTTW was evaluated only through the application of computer modeling.

The first pumping test, according to FORCE, would pump water from wells into Mountsberg Creek to assess the dewatering response without mitigation, and the second and third tests would pump water from wells into a trench, with the addition of boreholes in the trench during the third test. FORCE notes that the PTTW establishes a detailed approval and reporting system for the pumping tests and suggests that it is probable that St. Marys will encounter difficulties and delays in the testing stages, or in the reporting.

FORCE further submits that, since the PTTW is virtually one year long, the risk of significant environmental harm is the same as if the permit had been issued for one year or more. FORCE claims that the MOE, having given notice of the proposal under section 22 of the *EBR* and invited the public to make comments on it, cannot now rely on the duration of the PTTW to "circumvent the public's right to seek leave to appeal", where the MOE knows the public has a high level of interest in the instrument.

The Director submits that a proposal to issue a PTTW is only a Class I instrument if the permit "would authorize the taking of water over a period of one year or more". The Director states that the application for a PTTW indicated that the pumping tests would involve the taking of water for a maximum of 20 days in three phases over a five week period during a period of nine months. The Director states that he determined that the application was not a Class I instrument because the permit would not authorize a taking of water for a year or more. However, the Director states that notice of the application, pursuant to subsection 7(3) of Ontario Regulation 387/04 under the *OWRA*, was given on the *EBR* Registry to solicit public input due to the high public interest in the proposed quarry. The Director submits that, while the Director's intention was to post the notice as an information notice under section 6 of the *EBR*, it was posted on October 13, 2006 using the standard template used for Class I instruments under section 22 of the *EBR*. The Director states that it was an administrative oversight that the posting did not specifically indicate that the application was being posted pursuant to section 6 of the *EBR* as an information notice. Following review of the application, a draft permit was posted to the *EBR* Registry as an information notice on May 7, 2008 to elicit comments on the specific conditions being proposed. The Director states that the *EBR* Registry's internet site computer programming had been upgraded and a new template for information notices had been developed which clearly

indicated that the permit was for information purposes and provided a generic email address for comments. The Director further submits that the language of the decision notice stating that the instrument was "no longer" a Class I instrument was also an administrative oversight. The Director states that the confusion caused by the "administrative oversights" must be weighed against the Director's actions in seeking public input.

The Director submits that there is no provision in the statute or regulations that provides authority for an unclassified instrument to be treated as a classified instrument or indicating that posting notice of an application on the *EBR* Registry creates a Class I instrument.

With regard to the PTTW issued on July 8, 2008, the Director states that the permit authorizes testing during a 357 day window instead of the nine month period requested in the application, because the Director had imposed a condition in the permit requiring St. Marys to provide a report to the MOE between each phase of the pumping test. The Director indicates that the 357 day window would ensure that there was time to compile the extensive data collected and for consultation to occur between various parties between each phase of the test. The Director further states that the expiry date provides flexibility for scheduling the different phases of the test.

The Director states that he has no reason to believe that St. Marys will not be able to conduct the tests within the 357 day period, given that the tests each require 6 to 8 days to complete, for a total maximum of 24 days of taking water. The reporting period between the different phases is expected to take between 30 and 60 days. The Director states that he is satisfied that there will be enough time between each phase to review the data from the previous phase and to issue the approval, if warranted. The expiry date recognizes that due to the timing of the issuance of the permit, the third phase of testing may have to wait until spring. The Director submits that only he will be approving phases 2 and 3 of the pumping test, in accordance with Condition 3.3 of the PTTW, and that the other agencies listed in Condition 3.4 will be given copies of the reports and may submit comments to the Director.

The Director submits that FORCE's allegations that the testing will extend beyond a year is "speculation not supported by the facts." The Director states that he is satisfied that the taking will be completed in less than one year.

The Director points out that the permit does not approve a dewatering mitigation system, but only a pumping test to "provide data to assess whether the GRS may be feasible." The Director submits that the GRS is not theoretical and unproven, as at least three other quarries use one, including two quarries in Ontario. The Director further states: "However, it is certainly true that GRS is only feasible under certain site conditions, thus the need to conduct the pumping tests.

As there is prior experience with GRS in Ontario, the pumping tests are not novel and therefore no delays are expected for these reasons."

With respect to the Tribunal's jurisdiction, the Director submits that the Minister's responsibility to give notice of Class I, II or III proposals under section 22 of the *EBR* has been delegated to the Director, who must make a factual determination as to whether an application for a PTTW constitutes such a proposal. The Director agrees with FORCE that the application is not necessarily determinative of this question. The Director submits that he must assess the true nature of the proposal.

The Director submits that the facts in this case are significantly different from those in *Greenspace* in the following ways. In *Greenspace*, the permit applicant was a developer constructing a multi-phase subdivision over a number of years. The application was for a PTTW for 360 days. On the basis of the fact that the developer had been issued a series of short-term permits of less than one year for different phases of the construction, the Director determined that the entire project was one undertaking and, therefore, initially determined that the permit should be for longer than one year. The Director requested that the developer amend the first application to two years and submit a second application for a ten year permit. In the end, the Director issued an eight month permit. The Director concludes: "Nevertheless, as the developer had previously agreed to amend the application seeking a permit for two years, the nature of the proposal was such that it was a class I instrument."

In contrast, in this case, the Director submits, "…at no point in time did the application or the proposal under consideration by the Director contemplate that the permit would authorize the taking of water for a period of one year or more."

The Director argues that the factors raised by FORCE respecting the risk of significant environmental harm and public interest are relevant to the Leave Application, but are not relevant to the determination of whether the proposal is a Class I instrument.

The Director submits that FORCE's allegation that the Director has circumvented the *EBR* process in setting the 357 days, suggesting bad faith, is prejudicial and without any factual basis.

The Director argues that the administrative oversights, which the Director acknowledges and regrets, do not constitute bad faith.

The Director, in his concluding remarks, states:

> The Director recognizes that there is a high degree of public interest in the proposed Quarry and will make efforts to facilitate public participation in the decision-making process. Should St. Marys decide to pursue obtaining a permit for the dewatering activities at the proposed quarry, the proposal to issue the

> permit will almost certainly be posted on the Environmental Registry as a class I instrument.

The submissions filed by St. Marys point out that FORCE presents no evidence, other than the administrative oversights acknowledged by the Director, of any statement by the MOE or St. Marys that the proposal for pumping tests was a Class I instrument. To the contrary, St. Marys states that on numerous occasions the MOE and St. Marys told the stakeholders that this was not the case, such as at a public meeting at Our Lady of Mount Carmel Catholic Elementary School on April 16, 2008.

With regard to the GRS, St. Marys states that this "is a mitigation option for dewatering that must be verified by specific site testing." St. Marys explains that the first phase of testing is intended to provide a baseline response to pumping for use in evaluating the next two testing phases. St. Marys indicates that the results of the testing program will be used to calibrate a groundwater flow model. St. Marys submits that the testing program was specifically requested by various stakeholders so that it could be determined whether the GRS was feasible at the Property. St. Marys explains that if the tests show that "the GRS is not ideally suited for the site conditions", then testing for that option would end and if an alternative mitigation option is pursued, the appropriate approvals would then be sought.

St. Marys suggests that FORCE's allegations that the 357 day window is not sufficient is not relevant to jurisdiction and neither FORCE nor the Tribunal have the expertise to determine that question. St. Mary's states that the MOE has that expertise, was present during each day of the testing program and received daily progress reports, unlike most pumping test programs of this nature. St. Marys submits that there is sufficient time to deal with the reporting schedule and that phase one of the testing had to be undertaken in order to allow another test in the fall and a third test in the spring, and that the first test was completed without difficulty.

In reply, FORCE submits that the submissions of the Director and St. Marys are the first indications given to FORCE that there had been administrative oversights in relation to the *EBR* Registry postings.

FORCE also notes that the Director does not assert, as does St. Marys, that the MOE and St. Marys informed stakeholders that the proposal was not for a Class I instrument. FORCE points out that the neither the MOE slide deck presented at the April 15, 2008 stakeholder meeting, nor any oral comments made at that meeting, according to FORCE members who attended, provided that information.

With respect to *Greenspace*, FORCE made further reference to determinations made by the Tribunal.

> Consideration of all these matters requires a realistic assessment of the duration of the water taking based on the purpose for which the water taking is requested. Hence, under the OWRA and the Water Taking Regulation, the Director has the authority and, indeed, the obligation to determine the nature and extent of a proposed water taking, independent of the time period stipulated in the application as the term for the permit. In other words, the Director is required to determine whether the proposal would require authorization to take water for a time period different than the duration of the permit requested by an applicant.

FORCE submits that "the nature of the proposal and a realistic assessment of the duration of the water taking based on the purpose for which the water taking is requested, in this case, suggests that the PTTW is a Class I instrument."

Because of the review and reporting requirements of the PTTW, FORCE submits that it is not unreasonable to suggest that the length of time it will take for those decisions to be made may be as long as the 18 months it took for the Director to issue the PTTW.

In response to assertions by St. Marys that the first pumping test, which began on July 21, 2008, proceeded without difficulty and on schedule, FORCE submits that difficulties were encountered during that test. The submissions indicate that the President of FORCE and its consultant observed the water taking. FORCE submits that as a result of heavy rainfall, St. Marys had to request and obtain an extension of the water taking for the test. FORCE states: "It may be necessary, therefore, to redo phase 1 of the water taking. That will not be known until the data is reviewed, the agencies consulted and a decision if made by the MOE." This, according to FORCE, makes it "even more likely, when realistically assessing the duration of water taking based on the purpose for which the water taking is requested, that it will take more than one year".

In response to the Director's submissions that GRS has been used on three occasions, FORCE refers again to the fact that Gartner Lee, consultants for St. Marys, recommended testing because the effectiveness of the GRS had only been determined through the application of a computer model and described the GRS as "unproven technology without any precedent example, particularly in the Canadian climate."

FORCE submits that the Director's affidavit does not suggest that the GRS used in Milton or Kirkland, Ontario or St. Lucie, Florida were successful or had any application to the present case. Rather, the Director indicated that GRS must be assessed on a case by case basis through an evaluation of local site conditions.

FORCE refers to evidence indicating that the approvals process will extend beyond that given by the Director. A letter from Gartner Lee applying for the PTTW indicates that construction of the

GRS would require a site alteration permit from the City of Hamilton. A letter from Conservation Halton indicates that the trench and borehole works will require their approval.

In summary, FORCE submits that all of these factors go to the nature of the proposal, and that the 8 days less than a year do not change the proposal, which is for a Class I instrument.

Findings:

The jurisdictional issue which has been raised in this proceeding is whether the decision of the Director to issue the PTTW is "a decision whether or not to implement a proposal for a Class I or II instrument of which notice if required to be given under section 22", as required by section 38(1) of the *EBR*.

The provisions of Ontario Regulation 681/94 made under the *EBR* provide that a proposal for a permit under section 34 of the *OWRA* that would authorize the taking of water over a period of one year or more is a Class I proposal for an instrument.

As set out in the submissions of FORCE and the Director, this provision was recently considered by the Tribunal in *Greenspace*, in which the Tribunal found that it is the *nature of the proposal* and not solely the duration proposed in the application or set out in the permit that determines whether it is to be treated as a Class I proposal for an instrument. The Tribunal further found that the issue of whether the proposal would require authorization to take water over a period of one year or more must be determined through "realistic assessment of the undertaking giving rise to the application for the permit, based on the criteria set forth in the *Water Taking Regulation*." The duration specified in the application or the permit is not in and itself conclusive on this issue.

Applying the Tribunal's reasoning to the facts of this case, the Tribunal notes that it is the Minister's responsibility to give notice of Class I proposals under section 22 of the *EBR*. That responsibility has been delegated to the Director, and thus the Director must make a factual determination in every case as to whether an application for a PTTW is in fact a proposal for a Class I instrument. The application is not necessarily determinative. The Director must assess the true nature and extent of the proposed water taking. Similarly, this issue is not determined on the basis of whether the permit authorizes water taking for a year or more, but rather whether the undertaking is for a water taking of a year or more. The Tribunal further finds that although the "administrative oversights" of the MOE in posting the instrument proposal on the *EBR* Registry as though it were a Class I instrument proposal and indicating on the *EBR* Registry posting of the instrument that it was "no longer" considered a Class I instrument were unfortunate and confusing, they did not serve to make the proposal for a permit a proposal for a Class I instrument.

In this case, the Director submits that he did assess the nature of the proposal and determined that it was not a Class I instrument. The Director explains that the expiry date was set at 357 days to ensure there was sufficient time to compile data and for consultation to occur between various parties between each phase of the test. The Director also recognized that due to the timing of the issuance of the permit, the third phase of pumping may have to wait until next spring to occur. Thus the 357 day time window is the maximum period over which the test pumping will occur, but, in the Director's opinion, it is likely to be completed in significantly less time.

> As each pumping test only takes six to eight days, for a maximum total of 24 days, the timelines are such that St Marys has significant flexibility to adjust its testing program within the 357 day window and still complete all water takings prior to June 30, 2009.

As noted in *Greenspace*, "the Director has the authority and, indeed, the obligation to determine the nature and extent of a proposed water taking, *independent of* the time period stipulated in the application for the permit". Further, the Tribunal in *Greenspace* found, on the basis of the *nature* of the proposed water taking, that the decision to issue the permit was a decision to implement a proposal for a Class I instrument irrespective of the fact that the permit itself was issued for a period of time less than one year. This finding in *Greenspace*, however, was tied closely to the factual situation in that case where the proposal clearly showed, and the Director conceded, that the water taking could continue for at least a period of two years. Here, neither the proposal, nor the permit issued, contemplate the taking of water over a period of one year.

Despite FORCE's submissions that the water taking is likely to extend for a year or more, the Tribunal has not been presented with any evidence that the water taking will continue for a longer period. A realistic assessment of the undertaking giving rise to the application for the permit is that it is a series of three short pumping tests to test the feasibility of the proposed GRS mitigation system, which could result in the GRS option being abandoned. This is not a case where approvals have been segmented such that procedural rights have been undermined. This is so because it is not inevitable that more water taking will be needed after the test period. If the tests do not show that the GRS option is feasible then no further water taking will result, absent a new design and new approval process. If the tests show that the GRS option is feasible, then a longer term PTTW will be sought. As noted by the Director, should St. Marys decide to pursue obtaining a permit for dewatering activities, this proposal will almost certainly be posted on the *EBR* Registry as a Class I instrument because quarry dewatering would likely be required for many years of quarry operations.

The Tribunal finds that the undertaking of the pumping tests will not be for one year or more and that it is not inevitable that the pumping tests will be part of a longer term water-taking

undertaking. Therefore, the PTTW does not constitute a decision to implement a proposal for a Class I instrument. The Tribunal, accordingly, does not have jurisdiction to consider the Leave to Appeal application.

The Tribunal notes that the Director has promised to facilitate further public participation in the decision making process and that the opportunity may arise if further approvals are sought from the Director.

Decision

The application for Leave to Appeal submitted by FORCE is dismissed for lack of jurisdiction.

Application for Leave to Appeal
Dismissed for Lack of Jurisdiction

"Dayna Scott"
Dayna Scott, Member

Appendix A – List of Parties

Appendix A

List of Parties

Applicant:	Friends of Rural Communities
Counsel for the Applicant:	David Crocker and Liliane Gingras Davis LLP 1 First Canadian Place 5600 – 100 King Street West Toronto, ON M5X 1E2
Director:	Carl Slater Director, Section 34 *Ontario Water Resources Act*
Counsel for the Director:	Paul McCulloch Legal Services Branch Ministry of the Environment 2430 Don Reid Drive Ottawa, ON K1H 1E1
Instrument Holder:	St. Marys Cement Inc. (Canada)
Counsel for the Instrument Holder:	Jolanta Malicki St. Marys Cement Inc. (Canada) Votorantim Cement North America 55 Industrial Street Toronto, ON M4G 3W9