

June 13, 2008

It would appear that matters may be coming to a head with respect to Site 41 and a decision, one way or another, is expected soon.

Before the County can proceed with any further development of proposed site 41, they must overcome one last regulatory hurdle, the Permit To Take Water (PTTW). As you are aware, the CMC, FOTTSA, the Ontario Federation of Agriculture, and many other organizations and individuals, wrote to the MoE expressing concerns and drawing attention to as yet, unresolved issues. The MoE chose to respond to only a few of those who expressed concern, leaving the most salient issues raised, unanswered, in fact, the CMC has received no response at all from the MoE!

You may also be aware that I have made two (2) pleas to MoE Minister John Gerretsen over the past several months, requesting a meeting to discuss the many outstanding concerns surrounding site 41. Simcoe North MPP Garfield Dunlop has made a similar request on my behalf. Notwithstanding the immense resistance Minister Gerretsen faced from MoE staff, with respect to such a meeting, I am pleased to report that late yesterday evening (June 12), the Minister agreed to a tripartite meeting between us that will also include MPP Dunlop.

This meeting is to take place next week but a firm date has yet to be set. I do note that the Legislature is likely to adjourn next Friday June 20th. While I am pleased to have the opportunity to meet with the Minister, I am concerned that the meeting may only be "window dressing". I don't want to prejudice next week's meeting but it is instructive to note that the action of approving the PTTW, is in fact a delegated responsibility, that is to say it is within the authority of MoE staff to act, absent approval from the Minister. Of course, the serious implication of this is that the PTTW approval could very well occur following the adjournment of the Legislature and therefore not be subject to opposition scrutiny. If this unfortunate event were to unfold, we will need the support of all to bring pressure to bear on the government. I will advise if, as or when the need arises.

At the June 12th CMC meeting, MoE representative Ian Mitchell, advised the committee that the MoE hydrogeologist was content that there was no issue with respect to a lack of upward gradients at the site. Following this statement, members of the committee advised both the County and

the MoE representatives that upward gradients are an imperative condition of the Certificate of Approval. Further, the representatives were advised that included in the Design & Operations Report submitted by the county, was comment from their own consultant advising that occasionally the naturally hydraulic gradients are locally downward for short periods of time. Short periods of time have been defined as up to six months of the year. The County was unaware that this statement was in the report and perhaps more disturbingly, the MoE was uninterested. Compounding the problem is the fact that the underlying assumptions that support the conclusions of the MoE, have never been verified. This scenario is ominously parallel to the circumstance in Kirkland Lake at the Adams Mine where the consultant hired by the Timiskiming Federation of Agriculture had this to say about the MoE **"The level of scientific ignorance demonstrated by the Ontario Ministry of the Environment with regard to this matter never ceases to amaze me."**

The Timiskiming Federation of Agriculture was concerned with the veracity of the modeling used by the proponents of the Adams Mine site and the Hansard records that follow, make it clear how analogous our situation is to that which has already been decided in Kirkland Lake. **When we realized that the low pressure measurements in borehole 98-1 corresponded with the water level of Round Lake, and when the results of our monitoring program also indicated that Adams mine could be connected to the region of groundwater system and Round Lake, we contacted our respected hydrogeologist with previous experience with the project. He advised us to contact the Ministry of the Environment with our concerns.**

**We did contact the ministry, and their response left little doubt that our concerns would not be further investigated. In a letter to the TFA dated March 18, 2003, Mr. James O'Mara, director of assessment and approvals branch of the MOE, replied: "On behalf of the community liaison committee established for this landfill project, the site owner's peer review consultant, Gartner Lee Ltd, agrees with the conclusion that hydraulic containment can be maintained during the pumping and gravity drainage phases of the landfill."**

**The MOE's response left us no alternative but to continue our own investigation. We contacted Dr Ken Howard, a world-renowned groundwater consultant, and asked him if our concerns were valid. He agreed that they could be, and as a result, we commissioned him to conduct an independent review and critical analysis of the hydrogeological work done for the project.**

**Dr Howard was especially critical of the ministry's review of the modeling. He stated, "Head data from the two new boreholes must have sent shock waves through the proponent's camp." The vast majority of heads were unexpectedly low and simply failed to confirm the strong inward gradients**

**that had been implied previously by drill hole 95-12. Under the conditions of its agreement with the MOE, Golder had no choice but to invoke the use of numerical modeling tools in an attempt to show that the low groundwater heads deep in the aquifer would rise dramatically as the leach ate level in the pit rose toward its final resting level of 325 metres above sea level.**

**I examined the Golder models in detail and found them all seriously deficient, notably with respect to calibration. In particular, the models developed to convince the director that heads in drill hole 98-1 and drill hole 98-2 would recover sufficiently to sustain hydraulic containment have virtually no scientific merit and are effectively worthless for predictive purposes. The outcome of these models was entirely predetermined by the models' unverified boundary conditions such that none of the data observed in any of the boreholes would have had the slightest bearing on the model result.**

**The director's decision was patently premature and scientifically unjustified. At the EA board hearing, Notre acknowledged that numerical models suffer from inherent uncertainties and indicated that no important decisions would be based on modeling predictions. The director, it appears, had no such qualms, making a crucial decision based on the findings of two seriously flawed models that his scientific advisers should have rejected without hesitation. I do not criticize Golder for presenting its client's data in the best possible light, but I do fault the Ministry of the Environment for failing to conduct a thorough scientific review of the modeling results.**

The CMC continues to pursue access to the MODFLOW information used by the county in assessing the groundwater conditions at Site 41 and we continue to face resistance. The matter has been moved to the adjudication stage before the Information & Privacy Commissioner and on June 10th, the county made their final representations to the commission, fervently seeking to keep the information from public scrutiny.

A decision is imminent and the CMC remains optimistic that our arguments will prevail. In 2005, on appeal, the IPC directed the release of information in similar circumstances no fewer than 11 times.

The matter is also working its way through a process undertaken by the Ombudsman in response to the complaint filed last fall. The case has recently been assigned to an investigator who has escalated the "level of inquiry." I cannot comment with respect to the time lines involved with this inquiry but I can say that the file has been active before the Ombudsman since September 2007.

I wish I was able to say the matter has been laid to rest but I cannot. With that said, every day that we can prevent the continuation of development of site 41 is a victory. On a related matter, I, along with a few colleagues, have initiated a ZERO WASTE coalition in Simcoe County and our efforts have met with some success. If I could encourage all of your members to take a few minutes (15) and visit [www.storyofstuff.com](http://www.storyofstuff.com), it will provide some insight into how I think we are going to solve our waste management crisis. We have to stop looking for end of life solutions for our products. The decision shouldn't be choosing between the least-worst option of landfill and incineration. We need to look further up stream and with the current reserve capacities we have in Simcoe County, we have the time to affect positive change, all we lack is the political will to do so.

Ray Millar