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**MCGUINTY GOVERNMENT RISKS \$275 MILLION IN TAXPAYER MONEY  
UNDER ST MARYS NAFTA CHALLENGE**

**Toronto, September 16, 2011** – St Marys VCNA, LLC has submitted its claim to NAFTA Chapter Eleven Arbitration alleging the McGuinty government was so politically motivated to secure a Hamilton-area provincial seat and to benefit Liberal political insiders that it used a Minister's Zoning Order and Declaration of Provincial interest – for the first time ever in a quarry application – to kill the Flamborough Quarry.

**The allegations**

In plain language, St Marys' claim alleges:

- The McGuinty government - Minister Jim Bradley - took extraordinary and unprecedented steps to kill a proposed quarry that is adjacent to the home of his former senior staffer and the staffer's wife, who was a senior adviser to Liberal Premier Peterson
- The government facilitated funding and legal assistance to the community group fighting St Marys' quarry through the Greenbelt Foundation, chaired by former Premier Peterson's senior policy advisor
- Despite an exhaustive FOI request, the government records that were provided did not contain ANY scientific evidence that the quarry would compromise the watershed, water quality or quantity, wetlands, or the natural environment or any scientific reason to deny St Marys the right to a fair and impartial hearing.

**The process**

St Marys is using this challenge and a separate judicial review by its Canadian subsidiary, St. Marys Cement Inc. (Canada), to obtain a fair and impartial hearing into the substantial merits of its St. Marys Cement's quarry application. St Marys is seeking damages of not less than \$US275 million in compensation for the loss, harm, injury, loss of reputation and damage imposed by various governments.

By submitting its Notice of Arbitration, St Marys, a U.S. investor, has commenced a process that will create a three person international panel to review, in early 2012, St. Marys' allegations of serious fairness and due process irregularities taken by governments that harmed the company and its investments.

St Marys has exercised its rights under the law by filing a Notice of Arbitration under the North American Free Trade Agreement (NAFTA). St. Marys previously filed a NAFTA Notice of Intent on May 13, 2011 over the unfair treatment of its investment in Hamilton, Ontario. On May 19, St Marys Cement filed an Application for Judicial Review by the Ontario Superior Court of Justice. St. Marys continues to await high-level government consultations as part of the NAFTA claim process.

## **Background**

The governing Liberals won the riding in question, Ancaster - Dundas - Flamborough – Westdale, by a narrow margin of 6.7% in the 2007 election.

In 2006, St Marys Cement took over an application for a license to extract high quality aggregate from a site it purchased in Flamborough. In April 2010, then Minister of Municipal Affairs and Housing, the Hon. Jim Bradley, imposed a Minister's Zoning Order on the site. After St Marys Cement appealed this decision to the Ontario Municipal Board (OMB), the government issued, in April 2011, a Declaration of Provincial Interest which gave it license to overturn any OMB decision.

### **NAFTA Notice of Arbitration allegations:**

The NAFTA Notice of Arbitration is based, in part, on substantial, heavily redacted materials obtained under Freedom of Information and reads, in part:

- A local organization, Friends of Rural Communities and the Environment (FORCE)... included Mark Rudolph, the former Executive Assistant to former Minister of the Environment Jim Bradley and Mr. Rudolph's partner, Jan Whitelaw, a former Senior Environmental Policy Advisor to former Ontario Premier David Peterson. Mr. Rudolph and his spouse, Ms. Whitelaw, live adjacent to the Quarry Site.
- ...these prominent Liberal advisors were secretly able to convince Ministers of the governing Ontario Liberal government and Premier's and Ministers' staff members to use unprecedented unilateral Ministerial powers targeting only lands owned by St. Marys Cement and interfering with St. Marys Cement's vested property rights.
- The opponents of the quarry admitted to the existence of personal financial interests in stopping the quarry...In a *Hamilton Spectator* newspaper article on October 21, 2009, Mr. Rudolph was quoted (saying) "we figured the average estate home in the area might be worth half a million dollars, and that it would drop by at least 10 per cent with the proposal in play."
- The MZO was issued on political grounds. On the eve of the MZO announcement, the Press Secretary to Municipal Affairs Minister Jim Bradley counseled local Liberal MPP Ted McMeekin, to "trumpet your success" at the local level. He told Mr. McMeekin to do a multi-day celebration to get "the most media bang for our buck." He further suggested a victory party complete with "a giant cake, some music, etc."

In addition, Ms. Whitelaw serves as Chair of the Board of Directors of the Greenbelt Foundation and has been a director since its founding in June 2005. The Greenbelt Foundation has received significant funding from the Ontario government. In 2008, Ms. Whitelaw seconded a motion to grant \$375,000 in Year 1 of a renewable two-year \$750,000 grant to the Ontario Greenbelt Alliance, managed by Environmental Defence Canada. At the time, Environmental Defence Canada had been providing support to Whitelaw's community group FORCE in its fight against the quarry. St. Marys alleges that Environmental Defence Canada subsequently provided financial and other types of support to FORCE.

A thorough search of the redacted FOI materials indicates there are no technical or environmental data that would preclude issuance of a quarry license.

## **Quotes**

“St Marys regrets having to take these exceptional actions to assert our rights,” said St Marys President Richard Olsen. “But we are confident that if the quarry application is assessed on its merits, it would be approved. Beyond that, the quarry would deliver substantial benefits to the taxpayers of Ontario in building hospitals, schools and roads at reasonable cost, in an environmentally sustainable manner.”

“We are appealing to the McGuinty government to release all of the documents we sought in our Freedom of Information requests in an unredacted form,” Olsen said. “The community, taxpayers and St Marys deserve transparency and justice.”

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**For copies of the claim, interviews with Mr. Olsen and legal counsel:**

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