

To Clarington Council April 12, 2021 Re: Staff Memo

Item 14.1, St. Marys Cement – Bowmanville, Environmental
Compliance Approval Amendment for the Expanded Use of
Alternative Low Carbon Fuels

Linda Gasser

Essential that Council seek Leave to Appeal April 1 ECA decision
–your best option to protect community

- Best opportunity to address the deficiencies of ECA approval around: monitoring, emission limits, i.e. at least corresponding to what at DYEC or cement kilns elsewhere and issues around “best available control technology”, due to expanded types of waste to be burned.
- Do you think it’s a coincidence that MECP posted ECA Decision on April 1st - after business hours before an extra long Easter weekend – resulting in loss of 4 days of already short appeal period.
- **Seeking Leave** is the best opportunity to get concerns on record AND gain leverage AND be in position of strength to negotiate with both MECP and St. Marys, who will recognize this is Clarington being serious. **Short time line but doable.**

It's Council's duty to protect public

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*“A determination of whether the ECA Amendment Approval is protective of public health is beyond Staff’s area of expertise and is what **we rely on the Staff of MECP and the Public Officer of Health to determine**”*

Neither Clarington Council nor residents should rely on MECP nor on Durham’s MoH. I am not aware that Dr. Kyle submitted comments to SM application. His 2009 report was seen as “greenlighting” Durham’s incinerator

WITHOUT QUESTION –it is the duty of Council to take required action to protect the public interest, including the health of your community. You have the resources.

Two Questions when seeking Leave to Appeal

From Memo page 2 :

The ERT will consider the following two questions in deciding whether to grant leave to appeal:

1. Is there good reason to believe that no reasonable person, with respect to the relevant law and to any government policies developed to guide decisions of that kind, could have made the decision?
2. Could the decision the appellant wishes to appeal result in significant harm to the environment?

Q1. Is there good reason to believe that no reasonable person, with respect to the relevant law and to any government policies developed to guide decisions of that kind, could have made the decision?

- St Marys could burn garbage like an incinerator but they aren't required to test and/or monitor like an incinerator, not even to the degree required at Durham's incinerator, where monitoring is still LESS comprehensive than what Durham Council and staff promised pre-approval.
- Pleading with private sector foreign owned corporation is a lot more challenging than stakeholders pressuring public entity like Durham Region.
- BOTH facilities will emit many of the same contaminants. Without sufficient monitoring by SM, it will be almost impossible to know who emits what, other than during stack tests, whether SM has exceedances that may result in adverse effects and WHO should be held accountable. Imagine the crazy endless discussions that will consume everyone's time

Burning waste aka ALCFs exchanges one set of problems for another; it's a potentially dangerous trade off with additional potential for environmental harm.

- SM makes claims about meeting Regulation 419/05 for emissions but,
- *SM reply Attachment 4, 6i)*
- ***“Ambient air monitoring is not prescribed in the ECA. SMC is required to maintain compliance with O.Reg. 419/05: Air Pollution - Local Air Quality. SMC will maintain their existing ambient air monitoring program, which consists of continuous monitoring for PM10 and non-continuous monitoring for PM10 and Dustfall.”***
- Without ongoing Ambient Air Monitoring for relevant contaminants, similar to what required at DYEC, no way to know emissions except when modeled after stack tests.
- Periodic SOIL monitoring must be required at AA stations as is case in Durham. This esp. important given SM located in an urban area with many residents living close to facility.

Q2. Could the decision the appellant wishes to appeal result in significant harm to the environment?

And, by extension impact on public health

Wendy has provided Clarington and MECP with multiple submissions over the years around emissions and potential for adverse impacts as a result of burning ALCFs.

Limited blend of ALCFs tested. List of eligible materials vast – this will be an uncontrolled experiment burning such waste at a facility that **was NOT designed to burn waste and,**

Which does not have to meet same emission limits as incinerators nor monitor to same degree

Improvements to monitoring that a reasonable reviewer should have required, including but not be limited to what described below

- Semi Annual Source Testing (list of contaminants to be examined vs DYEC)
- Bag leak detection system –similar to post DYEC 2016 exceedance
- Ambient Air Monitoring for at least all contaminants that Durham monitors, at same frequencies including for metals and D/F incl. PM 2.5
- Annual soil sampling to start at all AA stations for parameters as DYEC
- Emissions limits comparable to DYEC, better still, comparable to what kilns meeting in other jurisdictions
- MECP requested to conduct Jurisdictional Review – no evidence they did
- Long Term Sampling System for Dioxins AND monitoring of chicken eggs at prescribed distances from plant, for dioxins. Chickens don't have power failures and data outages or mechanical breakdowns – reliable indicator

Monitoring reasonable review would have required, continued

- Best available control which includes processes and Air Pollution Control technology relevant to emissions from burning WIDE range of ALCFs.
- Monthly reporting of LTSS sampling data AND post to SM website promptly after sample results received.
- Quarterly and Annual public reporting for AA including access to consultant report and supporting data
- Annual soil test reporting
- Semi-annual reporting after Source testing
- Annual Report
- Impossible to determine what Surface Water monitoring required given wastes to be stored on site, for how long and under what conditions.

Outdated MECP standards not protective of health. Example when standard reduced: from DYEC 2020 ECA report,
 “Current Ontario 24-hour Ambient Air Quality Criterion for benzo(a)pyrene was introduced in 2011 and levels above this threshold are commonly measured throughout Ontario.” (Incl. DYEC)
 Benzo(a)pyrene is a Group 1 Carcinogen. Background already exceeds AA criteria – SM claims their contribution is “small”

Contaminant	CAS #	Basis	Year
Arsenic and compounds	7440-38-2	Health-based air guideline	1981
Lead and Lead Compounds	7439-92-1	Health-based air standard	2007
Nickel and Nickel Compounds	7440-02-0	Health-based air standard	2011
Zinc	7440-66-6	Particulate-based air standard	1974
Copper	7440-50-8	Health-based air standard	1974
Mercury (Hg)	7439-97-6	Health-based air standard	1974
Lithium (other than hydrides)	7439-93-2	Health-based air standard	1974
Ozone	10028-15-6	Health-based air standard	1974
Particulate matter	N/A	Visibility; air standard	2005
Carbon monoxide	630-08-0	Health-based air standard	1974

Significant reduction coming for SO₂, later NO_x

- From Durham's ERO submission <https://ero.ontario.ca/comment/47611>
- *However, given the nature of the facility, including proximity to residential areas, **understanding potential impacts of the facility are important in ensuring the health of the community and the environment.***
- *The Air Quality Study and Cumulative Effects Assessment in support of the application identifies maximum concentrations for five communities in table 6-1. **The Region notes that the Air Quality Criteria identified in table 2-1 for sulphur dioxide are not reflective of the changes announced in March 2018 to the AAQC's or O.Reg 419/05 values.***
- *The Region is of the understanding that the AAQC's for sulphur dioxide (SO₂) were scheduled to come into effect in Spring 2020, and that the O.Reg 419/05 values are currently in a phase in period until July 1, 2023. **These updated limits will reduce the 1-hr values from 690 µg/m³ to 100 µg/m³, based on respiratory morbidity in exposed sensitive populations.***

Durham submission continued below

- *Given the list of emissions from the facility identified above, including the levels of SO₂ being emitted, **consideration should be given to upgrading or adding additional monitoring stations with an expanded list of parameters**, and requirements be included for reporting the results of the monitoring to the MECP and the public.*
- *Given the similarities in emissions between the St. Marys projects and the DYEC, **it is important that comparable monitoring and information reports be provided to stakeholders**, so that they can remain informed with regards to how projects could potentially impact their communities. To this end, the Region would like to see the St. Marys **project be required to have comparable in-stack limits, ambient air monitoring requirements and report to the public as those directed in the DYEC ECA.***

There is evidence of potential adverse impacts (environmental harm) to the community from burning wide range of waste AND a reasonable reviewer would have required more safeguards

- Seeking a Leave to Appeal will show SM that Clarington Council WILL take action and appropriate steps to protect community.
- The time line is challenging but doable.
- The “issues” around Dillon’s problematic comments can be addressed – seems level of review not adequate to support some of their conclusions/recommendations.
- Seeking Leave to Appeal does NOT preclude Council from working with SM and Durham on any number of other issues, which though related, are quite separate from the primary issue at hand i.e. the implications of ECA decision to potentially cause harm to community.

SM want to burn garbage aka ALCFs –it's about profit.

- If SM were COMMITTED to protecting the host community, they could have announced they accept and adopt Clarington's and other requests, comparable to what required of DYEC.
- Responses as described in Attachment 4 are revealing –little indication that SM willing to go beyond what **required** in ECA.
- Using ALCFs as substitute for conventional fuels is about profit and greenwashing.
- Not only would SM fuel costs be reduced, there **may also be revenues** earned from accepting garbage/tipping fees from a large variety of sources for disposal.
- No lifecycle analysis of CO2 reductions or targets –so who knows what will be achieved
- There is no applicable “Waste Service Area” – waste could come from anywhere.
- Clarington is becoming a sacrifice zone. Council must do everything within their power to mitigate against Clarington becoming Ontario's dumping ground, and associated harms.
- I urge Clarington Council to seek a Leave to Appeal of the SM ECA Approval.

THANK YOU. QUESTIONS?