Thank you. My name is Graham Flint and I have the honour of serving as Chair and Spokesperson for FORCE – Friends of Rural Communities and the Environment.

FORCE was formed in June 2004 to protect our natural and built environments in the face of what is now the St Marys Cement’s proposed Flamborough Quarry.

We also believe that our organization has a responsibility to promote good government, and as such, we have participated in a number of past processes including consultations on the Provincial Policy Statement, the Greenbelt Act, and the Clean Water Act. We also sit on the Standards Development Panel of SERA (Socially and Environmentally Responsible Aggregate) an organization active in developing voluntary standards for aggregate operations. We welcome this opportunity to participate in the Committee’s review of the Aggregate Resources Act.

Given the time available to me today I plan to only briefly present a snapshot from our eight year long story. But the one overarching theme that we want to identify is that of presumptive development or entitlement. Many communities feel that it is a culture that permeates the ARA from Proponent to MNR.

I can tell you that when I first called the MNR district office, the staff person advised me that I should call the proponent and develop a working relationship with them because “these proposals always end up getting approved”. You may remember in Mr. Pichette’s comments from the MNR presentation last week when he explained that at the end of the ARA application process the Minister could either approve the license or refer it to the Ontario Municipal Board. The ARA actually gives the Minister a third option, they can deny the application, but to us it is revealing that the refusal option is no longer in the working language of the MNR; - the MNR appears to have given up that responsibility.

Let me begin by outlining a few of the characteristics of the proposal facing our Communities – it is a proposed limestone quarry on the border of Hamilton and Halton Region. The site is in the Drinking Water Protection Area for the community of Carlisle.
along with hundreds of private wells. It is in the Natural Heritage System of the Greenbelt with a significant collection of protected features – Provincially Significant Wetlands, significant woodlands, significant wildlife habitat, Species at Risk. etc. etc. It is an active farming community, mixed with a number of rural residential developments. The proponent’s own documentation estimates an operation in existence for some 60 - 70 years for the initial lands – this is not an interim land use – and the lands will be permanently changed - especially by the time the lake based rehabilitation plan would be complete. It will be our children’s children’s children who will still be living with the effects of this development.

The Committee members may be aware that an aggregate application requires evaluation for both an ARA license and for Planning Act approvals. In our case, the proponent purchased lands that were zoned Agriculture and Conservation management. The proponent is now seeking an Official Plan and zoning amendment to change that zoning to industrial extractive. No approvals are guaranteed – it is a ‘buyer beware’ situation where the proponent is speculating on an outcome. In the St Marys Cement case, the risk of the situation should have been even more apparent as they purchased the lands from an initial “land speculator” who had already enraged the community and had given rise to significant opposition.

To make our very long story short, consider the following highlights from the last couple of years:

St Marys Cement formally applied for their Aggregate Licence in 2009. Staff and elected officials in Hamilton, Burlington, Milton and the Region of Halton, as well as their Medical Officers of Health, all objected to the proposed quarry as part of the ARA process. They not only objected, but many passed specific resolutions calling on the Province to deny the license or stop the quarry. Other public agencies and stakeholders such as Conservation Halton, the Niagara Escarpment Commission, the Hamilton Wentworth District School Board, individual public and private schools, the Halton Region Federation of Agriculture, the Hamilton Wentworth Federation of Agriculture all objected. So did the provincial Ministry of Natural Resources (with 7 full pages of concerns) and the Ministry of the Environment. Along with those institutional stakeholders, more than 1200 area residents also formally objected to the proposal.

The St Marys Cement proposed Flamborough Quarry is not a partisan or political issue. Opposition to this proposed development crosses all levels of government and all political parties, including municipal councillors in Hamilton, Burlington, Milton and Halton, Conservative Halton MPP Ted Chudleigh, NDP House Leader / Hamilton Centre MPP Andrea Horwath, Liberal Ancaster-Dundas-Flamborough-Westdale MPP Ted McMeekin, and Conservative Ancaster-Dundas-Flamborough-Westdale MP David Sweet.
NO was the decision from our communities, our local and regional governments, the relevant agencies, and all other stakeholders. Unfortunately St Marys Cement refused to accept that decision.

In 2010, six years after the project was first proposed, the Province made a decision to use an existing tool under the Planning Act, a Ministerial Zoning Order or MZO, to freeze the zoning on the property. This action appears to, in part, reflect the unanimous stakeholder positions which had developed.

The company then pursued its interests before the Ontario Municipal Board and sought a hearing to revoke or amend the MZO. Hamilton, Milton and Halton made decisions to participate along with the provincial government. These municipalities also requested that the Province declare a Provincial Interest or DPI in the proceedings based on the issues involved. As the preliminary hearing started in 2011, the Province made the decision to declare a Provincial Interest to the Board.

St Marys Cement then chose to adjourn the OMB hearing and to escalate the situation to the courts by launching a Judicial Review challenge against the Province’s MZO and DPI actions.

We disagree with the company’s interpretation of events and any suggestions that the provincial government’s decisions were made inappropriately or for improper purposes.

To make an accusation that the reasons for the provincial decisions was for other than the fact and science based concerns related to the project appears disrespectful to all the private and public professionals who have evaluated the project and have made a professional decision to recommend that the project should not proceed.

The company then, under another corporate entity, SMC VCNA LLC, filed a NAFTA application for arbitration under Chapter 11 against the Federal Government of Canada. They are seeking $275 million USD in compensation from Canadian tax payers as a result of the Province’s actions.

In March 2012, the Federal Government determined that there were issues regarding the investor’s status because of its limited business activities in Canada and that it is wholly owned by a Brazilian conglomerate, with Brazil not being a signatory to NAFTA. St Marys Cement has since responded by filing a Judicial Review to the Federal Courts and we are told it has filed a second NAFTA claim.

When you add in an appeal of a recent Environmental Review Tribunal’s decision to support the Ministry of Environment’s decision to deny a new Permit To Take Water application in support of additional testing for the proposed quarry, we now have 6 legal or quasi-judicial actions underway.
The industry often argues that companies need efficiency, transparency, and certainty. What about efficiency, transparency and certainty for communities in the province?

Surely when all governments, agencies and stakeholders are saying no, the process should be able to come to a NO outcome. To us it would unfortunately seem that the philosophy of presumptive development and entitlement prevents the company from accepting a No decision.

During his remarks last week Mr. Moroz from St Marys Cement presented his perspectives on this situation. We are disappointed that the company has attempted to single out some of FORCE’s hundreds of supporters and volunteers. It is inappropriate for St Marys Cement to be targeting volunteers due to their past or current public service. We are concerned that the company continues to make serious allegations based on incorrect facts and information.

We categorically state that FORCE has not received and does not receive any funds from the Friends of the Greenbelt Foundation, either directly or indirectly through any other organization. FORCE is funded 100% by individual and business donations from supporters in our communities. These transactions are all reflected, and have been each year, in the FORCE annual audited financial statements posted on our website at www.StopTheQuarry.ca.

FORCE intends to stay engaged and continue to represent our communities’ interests until the proposed quarry is stopped once and for all. We very much appreciate the time to correct the record and to offer small portions of our story in the hope that no other communities have to face what we have.

Review of the ARA needs to be about updating and strengthening the regulatory framework to reflect current standards and expectations. All of the affected communities across the province hope that you will ensure that the evaluation of proposed aggregate developments is comprehensive, accountable, and inclusive and that where extraction is licensed that it is operated responsibly, transparently, and remains accountable to the Communities that host it.

As the Environmental Commissioner pointed out in a 2005 Toronto Star article, there is no shortage of rock in this province. The question is where and how we should extract and recycle it and what kind of legacy we want to leave to our children and grandchildren. This committee’s recommendations regarding the ARA, the Provincial Standards, and the MNR Aggregates Policy/Procedures Manual will help shape that legacy.

Thank You.