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HEADLINE: Cantley residents set for court fight over dump: Class action suit planned over claims of toxic gas leaks

BYLINE: Dave Rogers, The Ottawa Citizen

BODY:

Cantley residents expect to commence a class action **lawsuit** against the Quebec government and the owners of a building materials dump next week because they say the dump continues to emit toxic hydrogen sulphide gas.

The threat of a **lawsuit** follows a statement in mid-December from Quebec Environment Minister Thomas Mulcair that the province will seek a court injunction to close the dump, near Highway 307 and Holmes Road, despite declaring in October that it had met all government air quality regulations.

So far, however, the province has not obtained the injunction.

The 69 families who live nearby have retained a Chicoutimi lawyer who handled a similar case in the Saguenay area north of Quebec **City**. The Quebec Court of Appeal ordered the provincial government, the municipality and the owner of the Shipshaw dump to pay damages to 135 families living nearby.

The Cantley residents who live near the dump want to take the Quebec government, the dump owners and the municipality to court because, they say, the dump has harmed their health, reduced property values and forced them to live elsewhere at times to escape the fumes.

Isabelle Simard, the lawyer who represented the families near the Shipshaw dump, said that up to 600 people could be involved in the Cantley lawsuit.

Guy Legault, who has received treatment for pulmonary fibrosis at the General campus of the Ottawa Hospital for a month and will probably require a lung transplant, has commenced a separate \$1-million lawsuit against the province, the dump owners and the municipality.

Robert McClelland, a farmer who lives near the dump, said he is disappointed, but not surprised, that the province has not obtained a court injunction to close the dump.

"On Dec. 16, the minister said there would be an injunction, but we are pushing three weeks and no action has been taken to close the dump," Mr. McClelland said. "There have been many deadlines since last spring, and all of them have been ignored."

Ministry officials say the dump owners, Gilles Proulx, Denzil Thom and their numbered company, 21958597 Canada Inc., failed to install permanent gas filtration equipment by a Dec. 12 deadline.

Chantale Turgeon, a spokeswoman for Mr. Mulcair, said the ministry wants to close the landfill until it has equipment to control the rotten egg stench that sometimes comes from the site. However, Ms. Turgeon said no date has been set for the case to be heard in court.

The dump operators, meanwhile, are negotiating with the province and say the problem will be corrected in a few weeks. Spokesman Andre Guibord said the ministry has known for weeks that delivery of the gas-collecting and filtering equipment will be delayed until January. Mr. Guibord said he hopes company lawyers can reach an agreement with provincial officials to keep the landfill site open.

In the meantime, area residents are increasingly disgruntled with the the situation. "I hope the government will close the dump soon," said Mr. McClelland, "but past experience has shown they don't keep their word or live up to deadlines. There has been an investigation for more than 11 months, but there have been no charges against anyone and that is just inconceivable."

Mr. McClelland said the landfill site is still an environmental disaster waiting to happen. He said the dump -- which contains 700,000 tonnes of garbage covered with plastic and sand -- could contaminated the nearby Blackburn Creek and neighbourhood wells.

Provincial tests last winter showed gas emissions from the landfill could kill dump workers within 20 minutes.

In June, Mr. Mulcair, the environment minister, said the province would close the Cantley dump within weeks unless it meets strict government environmental standards. However, Quebec public health officials have asked the Ministry of the Environment to return its mobile laboratory to the site this month to test for contaminants. Ministry of Health spokesman Louis-Marie Poissant said it is important to know whether there is something in the dump besides drywall, wood and hydrogen sulphide gas.

"The Ministry of Environment will employ a laboratory that measures more than 10,000 substances," Mr. Poissant said. "Hydrogen sulphide shouldn't be a problem now, because the dump is capped. But there may be other gases and solvents. The laboratory will be able to measure the gases and determine whether there are still products of combustion. We must bring back the laboratory to be sure that there is no problem for human health."

Mr. Poissant said there have been a few complaints about sickness near the dump, but health officials don't know whether they are related to the landfill. Some residents complain about headaches and say that it sometimes smells bad because the cleanup was not done properly.

The Ministry of Health suggested a "voluntary evacuation" of 60 families near the site in March when firefighters worked on an underground fire that had been smouldering for months. Health officials warned dump workers to wear air tanks and breathing masks because the gas in some parts of the dump was strong enough to kill humans within minutes.

Dump operator Denzil Thom said the gas problem was under control on March 24 and sent a crew of firefighters home.

Despite all this, according to Mr. McClelland, there is still an odour of hydrogen sulphide and property values have declined dramatically. "Just about every day, someone calls the Ministry of Environment to complain about the gas," he said. "A temporary gas filtering system was set up, but the ministry says the problem won't be corrected until permanent equipment is installed.

"The owners covered the dump with a plastic membrane and put about two feet of sand on top. If you get an inch or more of rain, there is heavy erosion, and parts of the membrane and the pipes collecting the gas are exposed."

Mr. McClelland said ministry officials told him the temporary gas filtering system is not big enough to eliminate all the hydrogen sulphide from the dump.

Given this situation, the lawyer, Ms. Simard, said the damages the plaintiffs will seek will probably be much higher than the Shipshaw families, because their health was affected, many people had to live in motels or with relatives and some say their property values declined.

"We don't know whether the site meets provincial air quality standards," Ms. Simard said. "I asked for information from the Ministry of Environment, but it refused to give us the file from 2000 until" recently.

"Ministry officials said they couldn't release the records because the case is under investigation. The minister of environment should let us see the records because the court has authorized a class action lawsuit. We need to know what is going on there."

Like the Cantley dump, the Shipshaw landfill was intended for construction material, but accepted household garbage and other **waste**. Ms. Simard said residents complained about rats and hydrogen sulphide gas that smelled like rotten eggs.

In a Quebec Court of Appeal judgment on Dec. 16, 2004, justices Jean-Louis Baudouin, Louise Otis and France Thibault wrote that the Ministry of Environment knew that the Shipshaw dump violated provincial environmental regulations, but didn't act on the reports of its own inspectors.

The town of Saguenay, which absorbed Shipshaw, and the Quebec government were required to pay each household up to \$800 for foul odours and up to \$200 for rat damage because the dump owners declared bankruptcy.

The Quebec government cleaned up the Shipshaw dump and allowed vegetation to grow on it.

GRAPHIC:

Photo: Kier Gilmour, the Ottawa Citizen; Cantley's troublesome dump contains 700,000 tonnes of garbage covered with plastic and sand.

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