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The Sudbury Star

Lawyers take interest in Sudbury Soils Study: Law firm represents Port Colborne residents who are suing Inco over contaminated soil

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The Sudbury Star
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The lawyer representing 1,500 Port Colborne residents in lawsuits against Inco Ltd. says he has been talking with hundreds of Sudbury residents about the Sudbury Soils Study.

Eric Gillespie, of the Toronto law firm Markle May Phibbs, said this week he and other members of an environmental consulting firm have been hearing from Sudburians for some time.

"People have specific concerns about how the Sudbury Soils Study is evolving," Gillespie said from his Toronto office this week.

The Sudbury Soils Study is a three-year, \$5-million project to determine if metals of concern are contained in Sudbury soils, and to examine their effect on the health of people and the environment.

Inco and Falconbridge Ltd. are funding the study, and two of the six spots on the study's technical committee are filled with representatives from the nickel companies.

Gillespie said the people contacting his team have expressed doubts about the credibility of the study because of the heavy involvement of the companies that may be required to pay to clean up soils if they are found to be contaminated.

The people in touch with him also want to ensure there are "vehicles" for meaningful input into the Sudbury Soils Study.

Gillespie said he believes people's concerns can be addressed through the "existing framework" of the Sudbury Soils Study.

"But we need to strengthen people's confidence" in the process, he said.

With some assistance from his team, critics will be putting forward suggestions about how that might be done.

Gillespie said it was about a year into a similar process in Port Colborne when residents became frustrated that their concerns weren't being addressed.

He was retained by Port Colborne residents and representative plaintiff Wilf Pearson to launch a class-action suit on behalf of 10,000 townspeople.

Pearson developed respiratory problems and demanded the results of environmental testing done by Inco near his home be turned over to his doctor.

An independent health risk assessor estimated the cancer risk from nickel in Pearson's home was between 15 and 290 times greater than the Ministry of the Environment has determined is tolerable.

Inco disputed that expert's findings.

The courts are still deciding if that proposed class -- an estimated 10,000 property owners in Port Colborne -- can be certified. If it is, a class-action suit can proceed.

In the meantime, about 1,500 residents of the small town where an Inco refinery processed more than 2.5 million tonnes of nickel oxide from 1918-1984 have filed individual lawsuits against the nickel giant.

"No one wants to start a lawsuit," said Gillespie. "What they want is to ensure their voices are heard."

That being said, Sudburians are aware of the Port Colborne situation and have asked his team to give them a list of their "options."

"Nobody has made any decisions about anything," he added.

Gillespie expressed one of his own concerns about the Sudbury Soils Study on Thursday, upon the release of a report by Environmental Defence Canada naming Inco the worst mining polluter in Canada.

EDC's release of the top 10 worst polluters showed Inco released 704,808 kilograms of poisonous heavy metals in 2001 from three facilities -- 621,724 alone from the Copper Cliff smelter.

Samples for the Sudbury Soils Study were taken as long as two years ago, said Gillespie, which means they "may no longer accurately reflect what is on (people's) properties."

In response to that list being released, Inco spokesman Steve Mitchell pointed out the nickel giant has spend \$845 million on emission reductions since 1986. The Star erroneously reported yesterday that it had spent a lesser sum.

The environmental consulting team Gillespie is working with is comprised of about 20 people from the legal and scientific fields, including medical doctors, biologists and human health risk assessors.

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